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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 47 (DC)

5 MAHMOUD THIAM,

6 Defendant.

Trial

7 -----x

8 New York, N.Y.

9 April 27, 2017

9:32 a.m.

10 Before:

11 HON. DENISE COTE,

12 District Judge,
13 and a Jury

14 APPEARANCES

15 JOON H. KIM

Acting United States Attorney for the
Southern District of New York

16 BY: ELISHA J. KOBRE

17 CHRISTOPHER J. DiMASE

Assistant United States Attorney

18 -and-

19 U.S. DEPARTMENT OF JUSTICE

20 BY: LORINDA I. LARYEA

21 LAW OFFICE OF AARON GOLDSMITH, PC

Attorneys for Defendant

22 BY: AARON M. GOLDSMITH, ESQ.

MICHAEL DELAKAS, ESQ.

23 ALSO PRESENT: PATRICK KILLEEN, Special Agent, FBI

24 ALEXANDER BEER, Paralegal Specialist, USAO

KATHERINE BOSLEY, Paralegal Specialist, DOJ

25 JENNIE CARMONA, Defense Paralegal

JOANNA DEZIO, Interpreter (French)

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(Trial resumed; jury not present)

THE COURT: Good morning, everyone. We have a jury. And I understand from Ms. Rojas that there were no issues to raise with me now but there may be an issue to raise with me later. Great.

And we have a new interpreter. Why don't I qualify her before bringing in the jury.

I'd ask the interpreter please to stand.

THE INTERPRETER: Certainly.

THE COURT: Please describe for me how you learned French.

THE INTERPRETER: Ah.

THE COURT: Is it your native language?

THE INTERPRETER: No, it is not. I have a PhD in French and Italian from New York University. I was trained as an interpreter by the State Department in 1981, worked for them for about 20 years, and then went back to university teaching and interpreting. But I have spoken French for most of my life. I've studied in French -- in France, and I work a great deal in France on conferences.

THE COURT: Thank you so much.

THE INTERPRETER: You're welcome.

THE COURT: Counsel, any objections to me finding this interpreter qualified to interpret between English and French?

MR. KOBRE: No.

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1 MR. GOLDSMITH: No.

2 THE COURT: I ask that the interpreter be sworn.

3 (Interpreter sworn)

4 THE COURT: Please bring in the jury.

5 (Continued on next page)

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Sande - Direct

1 (Jury present)

2 THE COURT: Good morning, ladies and gentlemen.

3 THE JURORS: Good morning.

4 THE COURT: And you have the thanks on behalf of all
5 of us, my thanks and the parties' thanks, for your efforts to
6 be here on time. Thank you so much.

7 We have a new interpreter who has been found qualified
8 to serve as an interpreter and been placed under oath. Again,
9 her translation which will be provided of the questions and
10 answers of the witness controls, so those of you who know
11 French, you must rely on what the interpreter states as the
12 witness' answer. Thank you.

13 Counsel? Oh, I'm sorry. I remind the witness you are
14 still under oath.

15 THE WITNESS: Yes.

16 MAMADOU SANDE, resumed.

17 DIRECT EXAMINATION CONTINUED

18 BY MR. DiMASE:

19 Q. Good morning, Mr. Sande.

20 A. Good morning, Mr. Prosecutor.

21 Q. So I believe where we left off yesterday was that you were
22 talking about Jack, the first name Jack?

23 THE INTERPRETER: Talking about?

24 MR. DiMASE: A person named Jack.

25 A. Yes, it was when you asked me if there had been a

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Sande - Direct

1 Chinese -- a CIF representative in Guinea.

2 Q. And you said that that person's name was Jack?

3 A. Yes, Jack.

4 Q. And you testified that you didn't know his last name.

5 A. I don't recall it.

6 Q. And you also were testifying about an individual named Sam
7 Pa. Do you recall testifying about him?

8 A. Yes. Sam Pa is the boss of CIF.

9 Q. And you also testified very briefly about how in 2009 the
10 president had met with Sam Pa.

11 MR. GOLDSMITH: Objection.

12 THE COURT: Overruled.

13 A. Yes, it was around the month of June.

14 Q. And you said that you didn't know who else attended that
15 meeting.

16 MR. GOLDSMITH: Objection.

17 THE COURT: Overruled.

18 A. Yes, that's correct, because I wasn't part of it.

19 Q. Was there, to your knowledge, a second meeting involving
20 Sam Pa and the president?

21 A. Yes.

22 Q. Do you recall where that occurred?

23 A. I didn't attend that second meeting either, so I can't be
24 absolutely certain, but when I met Sam Pa, he was in the
25 president's office.

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Sande - Direct

1 Q. And when you say office, do you mean the building where the
2 president's office was located or in the president's office
3 itself?

4 A. During the reign of President Dadis, there was a sort of a
5 neighborhood where all of the military commanders lived, and in
6 that neighborhood the president occupied one part of an
7 apartment building. He slept there but he also worked there.
8 And it was in that building and in fact in his office that I
9 myself met Sam Pa.

10 Q. Was that the first time you met Mr. Sam Pa?

11 A. Yes, it was the first time.

12 Q. And you testified yesterday about serving as the minister
13 of energy after your term as minister of finance concluded. Do
14 you remember that?

15 A. Yes.

16 Q. And did you also meet with Sam Pa on occasion in 2010 in
17 your capacity as minister of energy?

18 A. Yes.

19 MR. DiMASE: I'd ask Mr. Beer now to publish
20 Government Exhibit 901 in evidence.

21 Q. Can you see that on the screen, Mr. Sande?

22 THE INTERPRETER: May I have that again?

23 Q. Can you see that on the screen, Mr. Sande?

24 A. Yes.

25 Q. And who is pictured in that photograph?

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1 A. Sam is on the left; on the right is the former prime
2 minister Jean-Marie Doré, who is deceased, and then -- with the
3 red tie; and beside him is Mahmoud Thiam.

4 MR. DiMASE: You can take that down, Mr. Beer.

5 Q. After these initial meetings between the president and Sam
6 Pa, what happened?

7 A. Within the framework of our government, we received
8 instructions to prepare documents, these regarding agreements
9 between Guinea and CIF.

10 Q. Was the issue of working with CIF raised in meetings of the
11 Council of Ministers?

12 A. We received instructions to have agreements drawn up in the
13 Council of Ministers, and, yes, that subject was brought up
14 then.

15 Q. Was there discussion of how that collaboration would go
16 with CIF, in the Council of Ministers?

17 A. The instructions were clear. After the meeting with the
18 president, it was a question of CIF being a large company which
19 had a great deal of financial capacity, and which had promised
20 Guinea to help Guinea with the development of all of those
21 sectors which would contribute to improving the lives of our
22 population. And so it was with that basic idea that we were
23 told to draw up documents which would permit us to begin to
24 have negotiations with the Chinese.

25 Q. And is it fair to say that there were discussions in the

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Sande - Direct

1 Council of Ministers about these issues?

2 A. Yes, the Council of Ministers, those meetings were used in
3 order to discuss that.

4 Q. Did you attend some of those meetings?

5 A. Yes, of course, I did. It is an obligation on the part of
6 ministers to attend those meetings.

7 Q. And do you have a clear memory of those particular meetings
8 in which the issues surrounding CIF were discussed, as you sit
9 here today?

10 A. Well, things were very clear. And in the context of the
11 Council of Ministers meetings, it's always the prime minister
12 who chairs the meeting. And so it was always in that context
13 of all of the ministers being together to discuss that. Now as
14 for me personally, I was not part of the actual putting
15 together of these negotiations.

16 Q. Was there a particular committee tasked with reviewing
17 documents in connection with the CIF deal?

18 A. Yes, it was a technical commission that was under the
19 direction of the prime minister.

20 Q. Are you yourself, Mr. Sande, a specialist or expert in the
21 area of mining or mining agreements?

22 A. No, I am not a specialist.

23 Q. And is it fair to say that you were not a part of that
24 technical committee?

25 A. No. It's fair to say that, officially speaking, the

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Sande - Direct

1 technical commission consisted of councilors, rather than
2 ministers, advisers.

3 Q. And you were not part of that.

4 A. No.

5 Q. In this deal with CIF, was CIF focused on any particular
6 sectors in the Guinean economy?

7 A. The first agreements that were developed, most especially
8 the master agreement, identified all of the sectors that were
9 supposed to help the Guinean population, and so therefore, the
10 agreement had to be based on sectors which were present in
11 Guinea. Among these sectors were energy, agriculture, mines,
12 and also the sector of transportation, where there are
13 considerable problems. In other words, in short, these were
14 the sectors that were involved entirely in the development of
15 Guinea.

16 Q. Did CIF have a particular interest in any one of those
17 sectors you mentioned?

18 A. In the beginning we were talking about a power plant, an
19 energy power plant, but there was also research going on for
20 oil, but also mining research. And so you might say, generally
21 speaking, that there was not one sector alone that was totally
22 focused on. In transportation, for example, there was a
23 concern not just to invest in transportation but also to create
24 the networks of transportation, according to the master
25 agreement.

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Sande - Direct

1 Q. Let me turn to the agreements that you mentioned.

2 Did the government enter into a preliminary agreement
3 with CIF?

4 A. There was, first of all, the memorandum of understanding.

5 Q. Mr. Sande, I'm going to hand you what's been admitted into
6 evidence as Government Exhibit 401. What is that?

7 A. That is the memorandum of understanding.

8 Q. And what date was it signed on?

9 A. Referring to my signature, it's the 6th of June.

10 MR. DiMASE: And I'd ask Mr. Beer to publish the
11 second page of Government Exhibit 401.

12 Q. Mr. Sande, were you directly involved in negotiating the
13 memorandum of understanding?

14 A. No, I was not involved.

15 Q. And you mentioned that you signed it?

16 A. Yes, I signed on behalf of the government.

17 Q. Who else signed it?

18 A. There is also the Guinean ambassador to China who signed it
19 as well, Mr. Diare. The others are the representatives of CIF.

20 Q. Okay. And do you recall whether they signed it first,
21 meaning the representatives of CIF, or whether you signed it
22 first?

23 A. I signed on the 6th of June.

24 Q. Had the Chinese executives already signed it when you
25 signed it?

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Sande - Direct

1 A. I think they did, yes.

2 Q. Did you sign it in the same room together?

3 A. No.

4 Q. So you believe the signatures from the Chinese executives
5 were on it and then you subsequently signed it.

6 A. Yes, I really think so.

7 Q. Okay. Who asked you to sign this agreement?

8 A. As I've already said, we had received the president's
9 instructions through the prime minister to prepare documents
10 which would go in the direction of our collaboration. And the
11 memorandum of understanding was the legal document which would
12 permit us to pursue these ends. And so it was under the
13 instructions of the president that I signed.

14 Q. Now after this memorandum of understanding was executed
15 were there additional agreements reached?

16 A. Yes, there was the master agreement.

17 Q. Let's talk about that for a moment.

18 I'm going to show you what has been admitted into
19 evidence as Government Exhibit 402. One moment.

20 Take a quick look at that, please.

21 Do you recognize that document?

22 A. Yes.

23 Q. Is that the master agreement that you were discussing a
24 moment ago?

25 A. Yes.

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Sande - Direct

1 Q. And did you sign this document?

2 A. Yes, indeed I signed this document.

3 MR. DiMASE: At this point I would ask Mr. Beer to
4 publish the final page of Government Exhibit 402.

5 A. Yes.

6 Q. And --

7 A. There you go.

8 Q. I take it the signature at the bottom of the page there is
9 yours, right?

10 A. Yes.

11 Q. And what date did you sign it?

12 A. This was the 12th of June.

13 Q. Of 2009?

14 A. 2009, yes.

15 Q. Who else signed it?

16 A. The representative of CIF.

17 Q. Do you know which representative it was in particular?

18 A. No, I don't know.

19 Q. All right. And again, do you know whether the Chinese
20 representative signed first or if you did?

21 A. I think that in this case he signed after I did.

22 Q. Were you together, you and the representative of the
23 Chinese company CIF?

24 A. No, we were not together.

25 Q. And who asked you to sign this document?

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1 A. Yes, it always goes -- it always has the same pace. Once
2 the agreement had gotten off the ground, we had precise
3 instructions of things to do, and it was in that exact context
4 that I signed this document on behalf of the government.

5 Q. Did the president ask you to sign it?

6 A. He asked me to, yes.

7 MR. DiMASE: I'm going to turn to just the page prior
8 to the final page, prior to the signature page, ask Mr. Beer to
9 publish that.

10 And Mr. Beer, if you could just expand the bottom
11 portion of the document -- of that page, I mean. Just the very
12 bottom portion, Mr. Beer.

13 Q. Do you see the initials at the bottom of that page,
14 Mr. Sande?

15 A. Yes.

16 Q. And do you know whose initials those are?

17 A. I initialed on the left again on behalf of the government,
18 and the one on the other side on the right is that of the
19 Chinese representative.

20 Q. Were there other agreements also entered into on the same
21 day as the master agreement?

22 A. Yes.

23 Q. I'm going to turn now to Government Exhibit 403, which I'm
24 handing you now.

25 Do you recognize that document, Mr. Sande?

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Sande - Direct

1 A. Yes.

2 Q. What is it?

3 A. Within the same initiative, it had also been planned to
4 have a loan agreement, and we were supposed to be the happy
5 recipients of that on behalf of CIF. And the sum total of that
6 was supposed to be \$76 million.

7 Q. Was that \$78 million?

8 A. It's written here somewhere.

9 Forgive me. It is 78.

10 MR. DiMASE: Turning to the last page of this
11 agreement, and I'll ask Mr. Beer to publish that page, the last
12 page of Government Exhibit 403.

13 A. Yes.

14 Q. Did you sign this document, Mr. Sande?

15 A. Yes, that's my signature.

16 Q. And what date did you sign it on?

17 A. Once again, it's the 12th of June.

18 Q. And again, is this, below your signature, the signature of
19 a representative from CIF?

20 A. Yes.

21 Q. And do you know exactly who that was?

22 A. No. It was a representative, but I don't know who signed
23 as a representative.

24 Q. And I take it, again, that you were not in the same room
25 with the CIF representative when you signed this document. Is

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Sande - Direct

1 that right?

2 A. No, I wasn't.

3 Q. I'm drawing your attention to the page before, which I'll
4 ask Mr. Beer to publish and expand the very bottom.

5 Whose initials are those at the bottom of the page?

6 A. That's me on behalf of the government.

7 Q. And there are two sets of initials. Whose are the others?

8 A. Yes, the other one is that of the Chinese representative.

9 Q. And did the president also ask you to sign this document?

10 A. Yes, I was executing his instructions.

11 Q. And did Guinea in fact receive \$78 million from CIF
12 pursuant to this agreement?

13 A. I can't personally say that I witnessed that because the
14 money was automatically transferred to the Central Bank. And
15 in the contract, it was clearly specified, \$50 million was to
16 be set aside for purely budgetary reasons, and in my role as
17 minister of finance, that was supposed to have been put at my
18 disposal within the context of budgetary concerns. Now the
19 rest was supposed to be used in the energy sector.

20 Q. Let me ask you this: Did Guinea actually receive the
21 entire 78 million, to your knowledge, into the Central Bank of
22 Guinea?

23 A. I can attest to the fact that the 50 million was there.
24 But the remaining 28 was put at the disposal of a commission
25 which was supposed to work within the context of emergency

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Sande - Direct

1 measures in the sectors of water and electricity. As to
2 whether they actually received 28 or less than 28, that's
3 something I cannot confirm.

4 Q. With respect to the master agreement, going back to
5 Government Exhibit 402, were you directly involved in the
6 negotiation of that agreement?

7 A. Not directly in the negotiation, but the development of
8 agreements falls under the purview, under the responsibility of
9 the government, the ministers. And I was part of that.

10 Q. Understood. But you were not personally involved in
11 negotiating the master agreement.

12 A. There was a technical commission which worked under the
13 umbrella of the government. And after the drafting, the
14 document was submitted to all of us in the government to
15 examine it. And that's where it was examined.

16 Q. But just to ask the very direct question again, you were
17 not personally involved in negotiating the agreement with the
18 Chinese.

19 A. No, I was not personally and directly involved.

20 Q. And that also applies to the loan agreement, Government
21 Exhibit 403, is that right?

22 A. It was the same process. We received instructions from the
23 president. The document was drafted for the \$78 million, and
24 the paper, once it was drawn up, was submitted to us for
25 examination.

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Sande - Direct

1 Q. And ultimately the president asked you to sign it, is that
2 right? Ultimately the president asked you to sign it?

3 A. Yes, all of these documents were done under his
4 instructions.

5 Q. Let me turn to -- well, withdrawn.

6 Was there a third agreement entered into on June 12,
7 2009?

8 A. Yes.

9 Q. I'm showing you what's been admitted into evidence as
10 Government Exhibit 404. Do you recognize that?

11 A. Yes, this is an agreement relating to -- yes.

12 Q. Sorry. What is it? You said it was an agreement relating
13 to, what?

14 A. This is the document that was supposed to permit the
15 Chinese to do research in the oilfield.

16 Q. Within Guinea?

17 A. Yes, in Guinea.

18 Q. I'm going to ask you to look at the signature page of this
19 document, Exhibit 404.

20 MR. DiMASE: And I'd also ask Mr. Beer to publish the
21 signature page to the jury.

22 Q. Who signed this document?

23 A. Yes.

24 Q. Who signed it?

25 A. On the Guinean side there is also Minister Thiam.

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1 Q. Well, did you sign it?

2 A. Yes.

3 Q. Okay. And Mr. Thiam also signed?

4 A. Yes.

5 Q. Do you recall if you were together with him when you signed
6 the agreement?

7 THE INTERPRETER: Do you recall?

8 MR. DiMASE: Do you recall if you were together with
9 him when you signed the agreement?

10 A. No, we were not together.

11 Q. And then it was also signed by two representatives from the
12 Chinese companies, is that right?

13 THE INTERPRETER: I'm sorry. Can I have that again?

14 MR. DiMASE: It was also signed by the representatives
15 of the two Chinese companies.

16 A. Yes.

17 Q. And that was both China International Fund and China
18 Sonangol.

19 A. Yes.

20 Q. And looking at the page before the signature page.

21 MR. DiMASE: And I'll ask Mr. Beer to publish that and
22 to expand the bottom portion.

23 Q. Do you recognize the initials on that document?

24 A. Yes, they are my initials. I think MT is Mahmoud Thiam.
25 And the others are the Chinese representatives.

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Sande - Direct

1 Q. And when you're referring to MT, could you describe where
2 on the document you see those initials.

3 A. It's on the extreme right.

4 Q. Okay. The bottom right?

5 A. Yes, it looks like MT.

6 Q. Now at around the time of the execution of these documents,
7 was a commission created to negotiate with CIF?

8 A. Yes. As I already said yesterday.

9 Q. Yes, you testified about that early in your testimony.

10 Could you remind the jury who were the members of that
11 commission to negotiate with CIF?

12 A. There are two things that I have to clarify. The
13 ministerial commission, which, as I said, was created by a
14 presidential decree, but, in parentheses, as for me, I did not
15 actually see the decree. It was State Minister Boubacar Barry
16 who told me about it. And he was president of the commission.
17 This was a commission tasked with negotiating with the Chinese.
18 And he said to me: There are two vice presidents in this
19 commission, Mr. Thiam and yourself. So, so much for the
20 creation of the commission.

21 Now as far as the negotiations are concerned, I myself
22 cannot say that such and such a person or such another person
23 negotiated because myself, I never attended any negotiations
24 with the Chinese. I do know that negotiations took place. But
25 I can't say to you this one or that one negotiated.

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Sande - Direct

1 Q. So let me pause you now and move on to another question,
2 and try to break down what you said.

3 So you testified that you learned from Mr. Barry that
4 this commission was created.

5 A. Yes. He was the president of the commission.

6 Q. And you learned that you and Mr. Thiam were also members of
7 the commission from Mr. Barry.

8 A. Yes, Minister Thiam was one of the vice presidents.

9 Q. And despite the fact that you were a member of the
10 commission, you didn't have any personal involvement in
11 negotiating with the Chinese companies.

12 A. No, I was never included in any negotiations.

13 Q. Okay. Did there come a time when a trip was arranged to
14 conduct negotiations with CIF?

15 A. Yes.

16 Q. And approximately when was that?

17 A. It was around the month of July.

18 Q. How did you first learn about that trip?

19 A. It was from Prime Minister Komara. He said that there was
20 a delegation that was supposed to go to China. But I was asked
21 to sign the power of attorney giving Boubacar Barry the right
22 to sign on my behalf. In the beginning I refused, because I
23 said, there's nothing in the way of my going myself. Why not
24 me? And that was it between him and me. That was the end of
25 that conversation.

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1 Q. Let me pause you there for a moment. Did you have a
2 conflict at that time that would have prevented you from
3 traveling to negotiate?

4 A. No, nothing at all.

5 Q. Well, were you directed that you were not to go on the
6 trip?

7 A. No. I was simply asked to be part of the commission, and I
8 was told that I was part of the delegation and asked to sign a
9 power of attorney. Didn't work with the prime minister. I
10 refused. So from that point on I behaved, as you will, as
11 myself a military man. I refused, according to conscience, but
12 I knew that if the president asked me, that's the chain of
13 command and so I would submit to the will of the president.
14 The president asked me, and that's how it took place. That was
15 done the night before the departure -- right before the
16 departure.

17 Q. Why didn't you want to sign the power of attorney?

18 A. These were my duties. After all, I am the minister of
19 finance representing Guinea, and what falls under my purview is
20 the responsibility for all economic and financial matters. And
21 if I don't have anything in the way, if I don't have an
22 impediment or an obstacle, I can't imagine anything would
23 prevent me from going. So that was the dust-up, in a word.

24 Q. Mr. Sande, I'm now handing you what has been admitted into
25 evidence as Government Exhibit 411. Please take a look at

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1 that.

2 A. Yes, this is the power of attorney.

3 Q. Okay. And could you describe --

4 MR. DiMASE: And I'll ask Mr. Beer to publish to the
5 jury 411T, please. And if you could focus in on the portion
6 below Full Powers, Mr. Beer, and capture it down to the bottom.

7 Q. Mr. Sande, is this the power of attorney you were just
8 describing?

9 A. But this is in English. I have the French in front of me.

10 Q. Would you look at the exhibit that's in front of you,
11 actually, the paper exhibit.

12 A. Yes.

13 Q. And that one is in French?

14 A. Yes.

15 Q. Is this the power of attorney that you were just
16 describing?

17 A. Yes.

18 Q. And what date did you sign it?

19 A. 13th of July 2009.

20 Q. You mentioned that you had a conversation with the
21 president. What did he say?

22 THE INTERPRETER: A conversation with?

23 MR. DiMASE: The president. What did he say?

24 A. He requested that I give power of attorney to Boubacar. So
25 finally, that's what I carried out.

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1 Q. Over your objections.

2 A. Yes.

3 Q. And you said that this was the day before the trip, is that
4 what you said?

5 A. I can't be exact about the date because I don't know the
6 exact date that they left, but yes, it was part of that
7 initiative for their trip.

8 Q. Who traveled on this trip?

9 A. According to what I was told, it was supposed to be
10 Minister Boubacar Barry and Minister Thiam.

11 Q. And did you attend the trip? Did you go on the trip?

12 A. No, I didn't. That's why I signed the power of attorney.

13 Q. Were you directed to go somewhere else?

14 A. Yes. At that time the minister of education was supposed
15 to go to Tunis, in Tunisia, because there were meetings
16 regarding Guinea with the IMF and the World Bank. So the
17 minister of finance was supposed to be present as well. And so
18 I did go to attend that conference.

19 Q. Okay. Was that around the same time that Mr. Barry and
20 Mr. Thiam traveled on the trip you described?

21 A. I believe so, and if memory serves, I made the trip from
22 Conakry to Paris with Mr. Barry, then I continued on to Tunis.

23 Q. And was it your understanding Mr. Barry was continuing on
24 to another location from there? Is it your understanding
25 Mr. Barry was continuing on to the location of the

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Sande - Direct

1 negotiations?

2 A. Yes, indeed.

3 Q. And do you specifically recall whether Mr. Thiam came at
4 the same time or not?

5 A. I don't remember Thiam's presence specifically. In any
6 case, they did make the trip together.

7 Q. Do you know where they went?

8 A. We were told that this was a trip for China.

9 Q. Do you know if they also went to Singapore on that trip?

10 A. I have no knowledge of that.

11 Q. While Mr. Thiam, Mr. Barry were on this trip, were you kept
12 informed of what was occurring in the negotiations?

13 A. No.

14 Q. I'm showing you now what's been admitted into evidence as
15 Government Exhibit 406. Do you recognize that document?

16 Withdrawn.

17 Have you seen that document before?

18 A. I saw this document in the context of your investigation.

19 Q. Well, when is the first time you saw that document,
20 approximately?

21 A. When I came here, last week.

22 Q. Okay. And so were you shown that document by the
23 government, by the prosecutors?

24 A. Yes, indeed.

25 (Continued on next page)

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Sande - Direct

1 BY MR. DiMASE:

2 Q. And you'd never seen it before last week, is that right?

3 A. No, I never saw that document.

4 Q. What is it, the document?

5 A. It's written in English, but according to your
6 explanations, it's --

7 THE COURT: I'm sorry. We're not going to go there.
8 Thank you very much.

9 Next question.

10 Q. Did you look at the last page of the document?

11 MR. GOLDSMITH: Objection.

12 THE COURT: Overruled.

13 Q. Can you look at it?

14 A. Yes.

15 MR. DiMASE: And I'll just ask Mr. Beer to publish the
16 final page of Government Exhibit 406.

17 Q. Drawing your attention to the bottom signature --

18 A. Yes.

19 Q. -- to the left it says your name and title, is that right?

20 A. Yes.

21 Q. Is this your signature?

22 A. No, that is not my signature.

23 Q. Whose is it?

24 A. Boubacar Barry, signed by order.

25 Q. And what does it say to the upper left of that signature

H4rWthi2

Sande - Direct

1 there?

2 A. It's the letters PO. It's what we call by order.

3 Q. So does that mean that Mr. Barry signed this document
4 pursuant to the power of attorney?

5 A. Yes, certainly, because he possessed the power of attorney,
6 he signed in my name.

7 Q. And drawing your attention to the very first page of the
8 document, which I'd ask Mr. Beer to publish, what's the date on
9 this agreement at the top?

10 A. It's the 18th of July 2009.

11 Q. Did there come a time when Mr. Thiam and Mr. Barry returned
12 from the trip?

13 A. Yes.

14 Q. Did Mr. Barry or Mr. Thiam discuss with you what had
15 occurred during the trip?

16 A. No.

17 Q. Did Mr. Barry or Mr. Thiam tell you that they had signed
18 any agreement on that trip?

19 A. No. I knew that they had left on a trip in order to
20 negotiate on behalf of Guinea, but I didn't know about any
21 agreement whatever.

22 Q. Now, was there another agreement that was entered into with
23 CIF subsequent to July 2009?

24 A. Yes.

25 Q. I'm showing you now what has been admitted into evidence as

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Sande - Direct

1 Government Exhibit 408. Do you recognize that document?

2 A. Yes.

3 MR. DiMASE: And Mr. Beer, I'd ask that you publish
4 the first page of Government Exhibit 408 for the jury.

5 Q. What is this document, Mr. Sande?

6 A. This is the shareholders pact.

7 Q. When was it -- what is it dated, or when is it dated?

8 A. I see the 2nd of October 2009. Yes, and I signed on the
9 same day.

10 Q. Was that the 10th of October?

11 A. Yes. 10th of.

12 THE INTERPRETER: Sorry. That was interpreter's
13 mistake. 10th of October.

14 MR. DiMASE: Of 2009?

15 Q. Of 2009?

16 A. 2009.

17 Q. Did you have any involvement in the negotiation of that
18 agreement?

19 A. No.

20 Q. Did you have any involvement in the drafting of that
21 agreement?

22 A. No, no, no.

23 Q. Did you -- how did you come to sign it?

24 A. I signed it in the same manner as I signed the other
25 documents. Ever since the very beginning, up to this one, as

H4rWthi2

Sande - Direct

1 for me the specific instructions that I received came directly
2 from the president. OK. As for me, my influence -- I had no
3 influence whatever on the draft, drafting of this document, but
4 my signature as per usual would be required.

5 Q. So the president directed you to sign it?

6 A. Yes.

7 Q. Did you read it carefully before you signed it?

8 A. I read it, but not with that degree of attention because
9 there was no way that I would have been able to bring any
10 modification to it.

11 Q. And again, you're not, you've testified that you're not an
12 expert in the area of mining or mining agreements. Is that
13 correct?

14 A. No, no, no.

15 Q. Who else signed it?

16 MR. DiMASE: At this point, I would ask Mr. Beer to
17 publish the signature page of Government Exhibit 408 for the
18 jury.

19 A. On the Guinean side, the minister of justice also signed.

20 Q. And who signed from the Chinese company's side?

21 A. I see Jack's name here. And I don't know the others.

22 Q. So you don't know Mr. Manuel Vicente?

23 A. The name of?

24 Q. Manuel Vicente.

25 A. Yes, but I didn't know him.

H4rWthi2

Sande - Direct

1 Q. He represented China Sonangol in signing this agreement?

2 A. According to what is written here, yes.

3 Q. And it says here Jack Cheung, group chief representative
4 for Guinea?

5 A. What was that again?

6 Q. It says Jack Cheung, group chief representative for Guinea?

7 A. Yes, that's Jack there.

8 Q. That's the same Jack you testified about earlier, who was a
9 representative of CIF in Guinea?

10 A. I believe so.

11 Q. Let me turn two pages before that page.

12 MR. DiMASE: And I'll ask Mr. Beer to publish that for
13 the jury and expand the bottom portion of that page.

14 Q. Do you see the initials there?

15 A. Yes.

16 Q. Do you recognize them?

17 A. On the extreme left --

18 Q. Right.

19 A. That's General Siba's initials. He was the minister of
20 justice. In the middle, that's me. Again, I think that MT is
21 Mr. Thiam, but I don't know if he initialed or not, because he
22 is not one of the signatories. And I think the remaining one
23 is the Chinese representative.

24 Q. The one on the far right?

25 A. Yes.

H4rWthi2

Sande - Direct

1 Q. Did you, Mr. Sande, attend any meetings relating to this
2 agreement, the shareholders agreement?

3 A. Personally, no, I did not.

4 Q. I'm showing you what's been admitted into evidence as
5 Government Exhibit 407, already in evidence. Do you --
6 withdrawn.

7 Does that represent the minutes of the meeting that
8 occurred on October 8 of 2009?

9 A. Yes, that's what I see here.

10 MR. DiMASE: And I would ask Mr. Beer to publish the
11 first page of Government Exhibit 407-T for the jury. And if
12 you could just focus on the list of attendees and expand that
13 for the jury.

14 Q. Mr. Sande, did you attend this meeting on October 8 of
15 2009?

16 A. No, I did not attend.

17 Q. Does your name or title appear in the list of attendees on
18 Government Exhibit 407?

19 A. No, I don't see it there.

20 Q. And you don't recall attending this meeting?

21 THE INTERPRETER: And you --

22 MR. DiMASE: Don't recall attending this meeting?

23 A. No. If I had attended the meeting, my name would be on the
24 list.

25 MR. DiMASE: May I have one moment, your Honor, very

H4rWthi2

Sande - Cross

1 briefly? Thank you.

2 No further questions.

3 CROSS-EXAMINATION

4 BY MR. GOLDSMITH:

5 Q. Captain Sande, you just testified about a meeting of the
6 cabinet that you were not in attendance for.

7 A. Yes.

8 Q. Do you recall why you were not in attendance at that
9 meeting?

10 A. I don't recall. It was only here that I saw this report.
11 So when it was shown to me, not only could I not recall it at
12 all, I don't even recall where I was at the time.

13 Q. OK. Do you recall where you were when you signed the
14 shareholder agreement dated October 10?

15 A. Yes, I was already asked that question by the prosecution,
16 and my answer was that I don't recall where I was when I
17 signed, but I am certainly the one who signed.

18 Q. Right. Do you remember if you were out of the country?

19 A. No. I signed that in Guinea.

20 Q. You testified yesterday and today about the change in
21 government that happened at the end of 2008. Do you remember
22 that?

23 A. Yes.

24 Q. And in the end of 2008, the military took over, is that
25 correct?

H4rWthi2

Sande - Cross

1 A. Yes.

2 Q. And the president, Dadis, came from the military?

3 A. Yes.

4 Q. You also testified that there were some changes in how the
5 government worked in 2009. Do you remember that?

6 A. At the seizing of power, there was a new government.

7 Q. Did the Guinean government operate the same in 2009 as it
8 should have operated?

9 MR. DiMASE: Objection.

10 THE COURT: Sustained.

11 Q. You were appointed as the minister of finance, correct?

12 A. Yes.

13 Q. Who appointed you?

14 A. As, as I said yesterday, the --

15 (Interpreter and witness conferred)

16 A. Mr. -- President Dadis gave the decree.

17 Q. When you say President Dadis gave the decree, meaning he
18 appointed you as the minister?

19 A. Yes. In Guinea, it's the president of the republic who,
20 through a decree, appoints his ministers.

21 Q. Under the hierarchy of the government of Guinea in 2009,
22 the president was the most powerful figure?

23 A. It's always that way in Guinea, according to our system.

24 Q. Underneath the president was the prime minister, correct?

25 A. Yes.

H4rWthi2

Sande - Cross

1 Q. Underneath the prime minister was the council of ministers,
2 correct?

3 A. I wouldn't say under the prime minister. The -- it's the
4 prime minister who chairs the council of ministers.

5 Q. OK. Does the prime minister have any additional authority
6 that the individual ministers do not have?

7 A. The prime minister is the head of the government. So on
8 the executive level, in the executive branch, you have the
9 president of the republic, the prime minister, and it is the
10 prime minister who is the head of government. And so normally
11 speaking, the individual ministers would report to the prime
12 minister before that report is passed on to the presidency.

13 Q. So the president appointed the majority of ministers that
14 were in place in 2009?

15 A. Yes.

16 Q. And the president established the committee or the
17 delegation that was responsible for negotiating with the
18 Chinese on the CIF investment project, correct?

19 A. Yes, the ministerial commission.

20 Q. And that included yourself, with Mr. Barry and Mr. Thiam?

21 A. Yes. That's it. Theoretically.

22 Q. Theoretically, because you did not participate with a lot
23 of the discussions, right?

24 A. Of course.

25 Q. And within that subcommittee, you testified earlier that

H4rWthi2

Sande - Cross

1 Boubacar Barry was the president?

2 A. Yes.

3 Q. And yourself and Mr. Thiam were vice presidents?

4 A. Yes.

5 Q. As part of the presidential decree, President Dadis wanted
6 Barry to be the president, right?

7 A. That's what Barry explained to me.

8 Q. You testified earlier that you did not participate a lot
9 with the discussions with the Chinese. Do you recall that?

10 A. Yes, I recall.

11 Q. And it was because you were quite busy as the finance
12 minister?

13 A. It depends. You participate in a negotiation when you have
14 been invited to do so. If you have not been invited, you may
15 not participate.

16 Q. Now, when you say invited to do so, you were on the
17 subcommittee for the Chinese investment deal?

18 A. That's why I was careful to say "theoretically."

19 Q. Very good.

20 Now, you discussed at one point earlier today that you
21 were called upon to attend a meeting in Tunis. Do you recall
22 that?

23 A. Yes. That was related to education.

24 Q. Were there -- I believe you said the meeting was with the
25 IMF.

H4rWthi2

Sande - Cross

1 A. With the World Bank, I believe.

2 Q. And that was because of your capacity as the finance
3 minister?

4 A. Yes.

5 Q. At the time, in 2009, Guinea was the subject of sanctions,
6 was it not?

7 A. Yes.

8 Q. And the cash reserves for the country were very low?

9 A. Yes, the country was in financial and economic difficulty.

10 Q. And those matters were of your highest priority?

11 A. As minister of finance, I say yes.

12 Q. Now, you testified earlier this morning about a \$78 million
13 loan. Do you recall that?

14 A. Yes.

15 Q. Do you recall when that loan was provided to the Republic
16 of Guinea?

17 A. I signed the document on the 12th of June, and I think that
18 it was upon that signature that the entire process got under
19 way. And then during the weeks that followed, the money was
20 deposited in the central bank in Guinea.

21 Q. Do you remember when the funds were actually provided to
22 Guinea?

23 A. Not exactly, no.

24 Q. But as you said, you recall signing the loan agreement in
25 June of 2009?

H4rWthi2

Sande - Cross

1 A. Yes.

2 Q. Now, you also testified this morning about those funds that
3 were part of the loan were intended to go toward water and
4 electricity?

5 A. Yes. This was an emergency program.

6 Q. You also characterized the loan as being part of the
7 investment project with CIF?

8 A. Yes.

9 Q. And you had that understanding because CIF was providing
10 the money?

11 A. The agreement that you have here is witness to that.

12 Q. Why did you feel that the loan of \$78 million was part of
13 the CIF investment project?

14 A. Because it is clearly set out in the loan agreement.

15 Q. Now, you also testified about the first time that you met
16 Mr. Sam Pa. Do you recall that?

17 A. Yes.

18 Q. And you said that at that moment, Mr. Pa was meeting with
19 President Dadis?

20 A. Yes.

21 Q. You said that as far as you were aware, that was the second
22 time that Mr. Pa had met with President Dadis?

23 A. I think so, yes.

24 Q. Why do you think so?

25 A. Because the first time I had heard about it, but I wasn't

H4rWthi2

Sande - Cross

1 present. I hadn't even seen him. It's the second time that I
2 saw him.

3 Q. So in the second time, when you actually met Mr. Pa, that
4 was at the president's office building?

5 A. Yes, as I have already explained.

6 Q. Do you recall who else was at that meeting?

7 A. In fact, we were not there in the context of any meeting,
8 and I can't say who actually attended the meeting itself, but
9 their clients were there and we were aware of the context in
10 which they had arrived. The place where they were is a place
11 where everybody shows up, everybody goes. And it was in that
12 context that I saw him. That was a place where all the
13 ministers came and went regularly.

14 Q. All right. So let's break this down. When you saw Sam Pa,
15 it was in a more public area?

16 A. Within the president's offices.

17 Q. And you said it's a place where lots of ministers come and
18 go?

19 A. Yes, ministers came there.

20 Q. And at the time where you saw Sam Pa with the president,
21 there were other ministers there?

22 A. Yes, there were ministers there. I can't confirm to you
23 today exactly which ones.

24 Q. And you don't recall if Mr. Thiam was there?

25 A. No, I don't recall.

H4rWthi2

Sande - Cross

1 Q. Now, you testified this morning about a photograph. In
2 this photograph you identified --

3 THE COURT: Is that 901, counsel?

4 MR. GOLDSMITH: It is, your Honor. Sorry.

5 THE COURT: Thank you.

6 MR. GOLDSMITH: 901.

7 Q. You identified Mr. Sam Pa on the left?

8 A. Yes.

9 Q. And you identified Mr. Thiam on the right?

10 A. Yes.

11 Q. You also identified the Prime Minister Doré?

12 A. Yes.

13 Q. That's the other gentleman in the picture.

14 THE INTERPRETER: The other gentleman --

15 MR. GOLDSMITH: In this photograph.

16 A. Yes.

17 Q. When did Prime Minister Doré take power?

18 A. It was during the transition, about the month of February
19 2010.

20 Q. OK. So February of 2010 is when Mr. Doré took over;
21 Mr. Komara was the prime minister before him?

22 A. Yes, Prime Minister Kabine Komara.

23 Q. You testified this morning on several occasions that in
24 regards to the several agreements in this case, that there were
25 clear instructions on what to do?

H4rWthi2

Sande - Cross

1 A. Yes. In any case, the three agreements that we were
2 talking about at that moment -- that is to say, the master
3 agreement, the oil agreement, and the loan agreement -- were,
4 corresponded to what you described, and that they were
5 elaborated by a commission that was under the umbrella of the
6 government.

7 Q. And you said that there was clear instruction with them?

8 A. Yes, clear instructions for going in the direction of
9 establishing cooperation with the Chinese.

10 Q. From President Dadis?

11 A. Of course.

12 Q. And the clear instructions for every one of those
13 agreements came from President Dadis?

14 A. Yes, going through the prime minister as head of the
15 government.

16 Q. And the prime minister was reflecting President Dadis'
17 desire to have those agreements implemented?

18 A. Yes, indeed, but you have to clarify. At the time that we
19 were going into negotiations with the Chinese, so a great
20 desire was there, because when you take into consideration the
21 enormous difficulties that we were under, we were of course
22 eager to enter into such negotiations, especially considering
23 the big sum of that loan. So there was a great desire involved
24 there; everybody was on the side of it.

25 Q. You testified about the power of attorney --

H4rWthi2

Sande - Cross

1 A. Yes.

2 Q. -- that was given to Boubacar Barry?

3 A. Yes.

4 Q. Boubacar Barry was the minister of housing at the time,
5 correct?

6 A. He was in charge of three departments.

7 Q. Which three?

8 A. There was public works, construction, and the public
9 heritage.

10 Q. Within the context of the CIF investment project, he was a
11 concerned minister?

12 A. The concerned minister? With respect to what?

13 Q. The projects that were going to happen under the CIF
14 investment.

15 A. Several departments were concerned by this.

16 Q. Right. And the several departments included agriculture,
17 right?

18 A. Yes.

19 Q. And transport, as you stated earlier?

20 A. Yes.

21 Q. In fact, as you discussed earlier, mines was but one aspect
22 of the CIF investment project?

23 A. In the investment, yes.

24 Q. Now, getting back to the power of attorney for Mr. Barry,
25 you testified that initially, you told the prime minister you

H4rWthi2

Sande - Cross

1 did not want to give him that power?

2 A. Yes.

3 Q. And after you told the prime minister that you were not
4 going to assign your power of attorney to Mr. Barry, the
5 president then instructed you to give the power?

6 A. Yes.

7 Q. There also was a meeting that you were asked not to attend.
8 Do you recall that?

9 A. What meeting?

10 Q. The meeting in China.

11 A. The meeting in China?

12 Q. Yes.

13 A. Are you talking about the power of attorney, because I
14 don't understand you?

15 Q. Let me back up. In your testimony earlier today, there
16 were a number of times where you testified that you were asked
17 to act in a certain manner as the minister of finance on the
18 subcommittee for CIF.

19 A. I don't understand.

20 Q. This morning in your testimony, there were several
21 occasions where you used the term that you were asked --

22 A. Yes.

23 Q. -- and you were -- and you testified in that fashion
24 regarding certain actions or inactions as part of that CIF
25 subcommittee. Do you recall those instances? From your

H4rWthi2

Sande - Cross

1 testimony this morning.

2 A. Do you think that you could rephrase your question, because
3 I'm just not managing to understand what you mean?

4 Q. Under the subcommittee related to CIF, you were requested
5 to take action.

6 MR. DiMASE: Objection.

7 THE COURT: Sustained.

8 Q. Under the subcommittee regarding CIF, you took direction
9 from the president?

10 A. Yes, as I explained, when those, when the first meetings
11 took place, we were given instructions, those of us in the
12 government. We were given certain instructions to be able to
13 enter into these agreements with the Chinese, and these
14 directions came directly from the president and were given to
15 the prime minister. That's what motivated our meeting in the
16 governmental context, and the agreements were developed. This
17 is work that came directly from the president and was developed
18 in the name of the government, and I signed the agreements on
19 behalf of the government.

20 Q. At the direction of the president?

21 A. That's what I just explained.

22 Q. And you did things like providing the power of attorney to
23 Minister Barry at the direction of the president?

24 A. Upon the request of the president.

25 Q. You were in a position to reject the request of President

H4rWthi2

Sande - Cross

1 Dadis?

2 A. If it's something that's not good, you say it's not good,
3 even as a minister. It is part of your responsibility to
4 explain to the president when something is not correct.

5 Q. Despite your testimony earlier that as a military man, you
6 considered it chain of command.

7 MR. DiMASE: Objection.

8 THE COURT: Overruled.

9 A. Yes, chain of command is respected in the army.

10 Q. Now, you were asked some questions about a meeting that
11 took place with the council of ministers on October 8 of 2009
12 that you did not attend?

13 THE INTERPRETER: Could I have that date again?

14 MR. GOLDSMITH: October 8.

15 THE INTERPRETER: Thank you.

16 A. Yes, you asked me that question.

17 Q. There was a shareholders agreement that was executed two
18 days afterward?

19 A. Yes, according to what I saw.

20 Q. That you had signed?

21 A. Of course.

22 Q. And that you signed at the direction of the president?

23 A. Yes, I signed at the direction of the president. He -- the
24 document came to me. I consulted the president. The
25 commission had been established and developed the work, and

H4rWthi2

Sande - Cross

1 document's correct and I signed it.

2 Q. What's the difference between a minister of state and a
3 minister at the presidency?

4 THE INTERPRETER: Minister of the presidency?

5 MR. GOLDSMITH: At the presidency, in 2009.

6 A. A minister of state is perhaps one degree higher than a
7 typical minister, normal minister, so according to French
8 nomenclature and structure, a minister of state has a number of
9 other departments that are under his responsibility and duties.
10 So for example, if we take the case of Boubacar Barry, he was
11 the state minister in charge of three departments. And so
12 there was a secretary of state who was a minister but who
13 reported to him.

14 Now, a minister to the presidency, that's a minister
15 which comes directly under the presidency because the president
16 has a very particular interest in the particular sector, and so
17 keeps an eye on it. That's the difference.

18 Q. Did Minister Barry speak English in 2009?

19 A. I have no knowledge of that.

20 Q. Do you ever remember hearing him speak or read English?

21 A. Our official language is French, so among one another,
22 generally speaking, we're speaking French.

23 MR. GOLDSMITH: No further questions.

24 THE COURT: Is there redirect or not?

25 MR. DiMASE: Yes, your Honor. Very briefly.

H4rWthi2

Sande - Redirect

1 THE COURT: Ladies and gentlemen, we could take a
2 break now or see if we can complete this witness's testimony,
3 since this is going to be brief questioning. Would anyone like
4 to take a break now, or can we wait a few minutes? Break now
5 anyone? We can wait, then.

6 Counsel.

7 REDIRECT EXAMINATION

8 BY MR. DiMASE:

9 Q. Mr. Sande, just a couple of follow-up questions for you.

10 A. Yes.

11 Q. Those agreements that were signed in June 2009 --

12 A. Yes.

13 Q. -- were they discussed in the council of ministers?

14 THE INTERPRETER: Were they?

15 MR. DiMASE: Discussed in the council of ministers.

16 MR. GOLDSMITH: Objection. Timing.

17 THE COURT: Overruled.

18 A. The first three agreements?

19 Q. Correct.

20 A. Yes.

21 Q. And did those agreements have the approval of the council
22 of ministers?

23 A. Yes.

24 Q. To your knowledge, was the second -- was that document that
25 was dated July 2009, the document that you reviewed dated July

H4rWthi2

Sande - Recross

1 2009, was that discussed by the council of ministers?

2 A. No. I have no knowledge of that. As I have already said
3 regarding this document, this is a document that I became aware
4 of only when I saw you.

5 Q. And with respect to the shareholders agreement, you
6 indicated that you did not participate in meetings regarding
7 that agreement?

8 A. No, I did not.

9 Q. So you did not have direct input into that agreement?

10 A. Personally, no.

11 Q. And were you aware of objections by the technical committee
12 regarding the shareholders agreement?

13 A. Personally, I was not in contact with that technical
14 commission.

15 Q. So you were not aware of objections made by that technical
16 committee to the shareholders agreement?

17 A. No.

18 MR. DiMASE: One moment, your Honor.

19 No further questions.

20 THE COURT: Recross?

21 MR. GOLDSMITH: Thank you.

22 RE CROSS-EXAMINATION

23 BY MR. GOLDSMITH:

24 Q. But you signed the shareholder agreement at the president's
25 wishes?

H4rWthi2

Sande - Recross

1 THE COURT: Yes or no?

2 THE INTERPRETER: Oh, did you --

3 MR. DiMASE: Yes.

4 A. Yes, I signed. Yes, I signed according to the instructions
5 received.

6 MR. GOLDSMITH: No further questions.

7 THE COURT: Any redirect?

8 MR. DiMASE: No.

9 THE COURT: You may step down.

10 (Witness excused)

11 THE COURT: Ladies and gentlemen, we'll take our
12 midmorning recess. Let Ms. Rojas know when you're ready to
13 resume.

14 (In open court; jury not present)

15 THE COURT: You can leave.

16 (Continued on next page)

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(Jury not present)

THE COURT: Mr. Kobre, anything to discuss?

MR. KOBRE: We do have one brief matter for the Court that will relate to the next witness, although it's not likely to come up before lunch. But it's an evidentiary issue.

MS. LARYEA: Your Honor, may I approach with the documents.

Your Honor, the government plans to use three summary exhibits with the next witness. There is, under the government's understanding, no dispute with defense counsel as to whether these summary exhibits can be used as demonstratives in court. The dispute is about whether the summary exhibits can be admitted under 1006 as summary exhibits into evidence. And the government's position is that it should be admitted into evidence because it meets all four requirements under 1006.

THE COURT: These are exhibits 1001, 1002, and 1003 that we're talking about?

MS. LARYEA: Correct, your Honor. They relate to the HSBC Hong Kong bank records of the defendants and the China International Fund executives. Those records are voluminous. They are about 2600 pages long, and they're not conveniently subject to examination by the Court.

Further, these summary exhibits are an accurate compilation of those voluminous bank records.

H4r1thi3

1 Third, those bank records have been admitted into
2 evidence by stipulation of the parties.

3 And fourth, these summary exhibits have been given to
4 the defense for examination and review.

5 So because these exhibits meet the four requirements
6 under 1006, the government wishes to offer them into evidence.

7 THE COURT: Mr. Goldsmith.

8 MR. GOLDSMITH: As the government stated, I have no
9 objection to the special agent using these as demonstrative
10 pieces during his testimony to ease the jury's understanding of
11 some of the details of that testimony, but I do not think they
12 should be admitted as exhibits for the jury to review during
13 the deliberation process. As the government said, all of the
14 underlying evidence has already been stipulated to. It will be
15 available for the jury if they so wish to review. But beyond
16 that, these documents represent a -- while it is a visual, for
17 lack of a better word, a flow chart, they represent the aspect
18 of testimony that is best reflected by the agent's testimony in
19 person or through the transcript.

20 And moreover, at least for the exhibit marked as 1001,
21 while the flow chart goes into how the expenses were made from
22 the defendant's bank account, it is totally immaterial and
23 irrelevant to the elements of the case at hand, and I don't
24 believe that that would be appropriate for the jury to review
25 during deliberations.

H4r1thi3

1 So under those reasons, as I said, I have no problem
2 with the government publishing it during the agent's testimony,
3 but I don't think it should go back during deliberations.

4 THE COURT: Okay. So let's focus on 1001. What is
5 your specific objection to 1001?

6 MR. GOLDSMITH: In terms of actual evidence for the
7 jury to review in deliberation?

8 THE COURT: Yes.

9 MR. GOLDSMITH: It is, the right half of the page
10 articulates the specific expenses of the defendant. In other
11 words, it says airfare, luxury hotel, transportation, with
12 logos of British Airways and Four Seasons, interior design and
13 houseware, a logo of Steinway & Sons pianos, designer apparel,
14 Louis Vuitton and Barney's logos. Again, all of the underlying
15 bank statements are in evidence by stip, but the condensing and
16 the review in this particular fashion of how the defendant
17 spent any money is irrelevant and immaterial to the elements of
18 whether he accepted a bribe and then as that foundation of
19 whether the bribe was ultimately laundered into his bank
20 account. If there was testimony in evidence that third parties
21 made luxury purchases that were then gifted to the Thiams, I
22 might accept that as being more relevant or material to the
23 aspect of bribes, but there's been no such testimony and won't
24 be any such testimony. This is purely a pictograph of how
25 funds were spent from the Thiam account. I think that it is

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1 prejudicial in that respect because they are highlighting
2 luxury discretionary purchases that may impact and influence
3 the jury's decision by making an estimate of the defendant's
4 character about how he spends his money rather than focusing on
5 the elements of the case, which are: did he accept a bribe and
6 did he then take that bribe money and bring it into a US
7 account.

8 THE COURT: Okay. So let me start with finding that
9 these three exhibits -- 1001, 1002, and 1003 -- meet the
10 requirements of Federal Rule of Evidence 1006. The underlying
11 documents reflecting financial transactions are voluminous. It
12 would be beyond any human being's ability, in the course of
13 this trial and service as a juror, to plow through them and try
14 to make sense of them, so the only sensible way to present the
15 relevant portions of the documents is through a summary
16 exhibit.

17 And so I understand that the only real objection is
18 with respect to what might be presented under Rule 403, and it
19 concerns Exhibit 1001. Now I understand with respect to that
20 objection there is no dispute with respect to the accuracy and
21 the objection is not to presenting this information to the
22 jury, because defense counsel agrees that could be done by a
23 witness on the stand giving testimony orally that summarizes
24 this same information. So again, the objection is to having
25 that easily accessible to the jury through a presentation of a

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1 single page.

2 In terms of prejudice, of course, the concern of 403
3 is one of unfair prejudice. Much evidence that comes in during
4 the trial is prejudicial in the sense that it's relevant in
5 tending to show guilt. So I don't understand there to be any
6 unfair prejudice here. It's fair for the jury to consider why
7 one would take a bribe. There has already been testimony that
8 the jury might find that bribe money perhaps, assuming other
9 evidence comes in, that was used to buy and renovate a home in
10 a luxurious manner, is possibly considered by it.

11 So Mr. Goldsmith, I want to make sure I captured your
12 argument correctly, but I think your concern is with the fact
13 that the jury will have evidence that, if they find bribe money
14 came into the United States, it was used for the purpose of
15 purchasing luxuries, among other things. Is that really the
16 nub of it?

17 MR. GOLDSMITH: Yes, your Honor, that it would be
18 unfairly prejudicial in the sense that the jurors would be
19 examining characteristics and traits of the defendant rather
20 than the strict elements.

21 THE COURT: Okay. Much of the evidence, of course,
22 that comes in at any trial is beyond the strict elements. It
23 provides circumstantial evidence for the jury to infer many
24 things. That's typical at a trial. And here, how the
25 defendant used money, if the jury finds that he did receive a

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Killeen - Direct

1 bribe and brought that money into this country, would be
2 relevant, indeed highly relevant, and so as long as there's no
3 argument that there is an unfair or inaccurate presentation of
4 information in 1001, that the specific expenditures are not
5 accurately described on the document, I will permit 1001 to be
6 used.

7 Okay. Anything else, Mr. Goldsmith, we need to
8 address at the break this morning?

9 MR. GOLDSMITH: Not at this time.

10 THE COURT: Thank you.

11 So counsel, I want you to be prepared at 5:00 to
12 address the open issue of the videotaped testimony, now that we
13 have had the discussion or the presentation of testimony from
14 the two Guinean witnesses.

15 I'll give you a very brief chance to take a recess.
16 The jury is ready.

17 THE DEPUTY CLERK: All rise.

18 THE COURT: Come back as soon as possible to the
19 courtroom, please.

20 (Recess)

21 (In open court; jury not present)

22 THE COURT: Bring in the jury.

23 (Continued on next page)
24
25

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Killeen - Direct

1 (Jury present)

2 THE COURT: Government may call its next witness.

3 MS. LARYEA: The government calls Special Agent
4 Patrick Killeen.

5 THE DEPUTY CLERK: Agent Killeen, if you'd please come
6 forward and take the witness stand.

7 (Witness sworn)

8 PATRICK KILLEEN,
9 called as a witness by the Government,
10 having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. LARYEA:

13 Q. Agent Killeen, where do you live?

14 A. I live in New York City.

15 Q. Where do you work?

16 A. I work with the FBI here in New York.

17 Q. How long have you been with the FBI?

18 A. Approximately 14½ years.

19 Q. What is your current assignment with the FBI?

20 A. I'm currently a special agent assigned to the international
21 corruption squad here in New York.

22 Q. When did you join that squad?

23 A. October of 2015.

24 Q. What did you do before you joined that squad?

25 A. I worked in two previous FBI offices in Milwaukee and

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Killeen - Direct

1 Detroit.

2 Q. How long were you in Milwaukee?

3 A. I was there for three years.

4 Q. And how long were you in Detroit?

5 A. Approximately nine and a half.

6 Q. What kind of cases did you investigate while you were in
7 Milwaukee and in Detroit?

8 A. I worked a variety of criminal violations but primarily
9 white collar crime, public corruption, and organized crime.

10 Q. Before you were an FBI agent what did you do?

11 A. I worked -- I earned a CPA, I worked in public accounting
12 for two years, and then I worked at a hedge fund for three and
13 a half.

14 Q. Agent Killeen, in your current position what kind of cases
15 do you investigate?

16 A. We investigate primarily violations of the Foreign Corrupt
17 Practices Act, kleptocracy, and associated money laundering.

18 Q. Have you investigated a money laundering case?

19 A. Yes, I have.

20 Q. Are you familiar with Mahmoud Thiam?

21 A. I am.

22 Q. How are you familiar with him?

23 A. Shortly after arriving in New York and joining the squad, I
24 was assigned as a co-case of the investigation of the
25 defendant.

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Killeen - Direct

1 Q. Around when were you assigned as a co-case agent in the
2 investigation of the defendant?

3 A. Approximately November 2015.

4 Q. Why was the FBI investigating the defendant?

5 THE COURT: Sustained.

6 Q. Why were you investigating Mr. Thiam?

7 THE COURT: Sustained.

8 Q. While you were working on this case did you gather
9 electronic evidence?

10 A. We did.

11 Q. What kind of records did you gather?

12 A. Multiple different types of records. We obtained bank
13 records, emails, toll records.

14 Q. Let's start with the emails.

15 A. Okay.

16 Q. How did you get those records?

17 A. Those were obtained via search warrant.

18 Q. And you mentioned other records as well. You mentioned
19 bank records.

20 A. Yes.

21 Q. How did you get those bank records?

22 A. Those records were obtained through standard legal
23 requests, including a grand jury subpoena.

24 Q. Any other ways you obtained those records?

25 A. Requests, and then we also obtained records, financial

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Killeen - Direct

1 records, through a search warrant.

2 Q. Were all the financial records you obtained based in the
3 United States?

4 A. No, they weren't.

5 Q. Where else were they based?

6 A. We obtained records from Hong Kong, financial records.

7 Q. Did you obtain any other kinds of evidence in your
8 investigation of this case?

9 A. Yes, we did.

10 Q. What kind of records?

11 A. We obtained property records related to certain properties.

12 Q. The property records, what properties were they related to?

13 A. Primarily the defendant's residence on the Upper East Side
14 of New York and the property located up in Dutchess County.

15 Q. Mr. Killeen, I actually want to return to the financial
16 records that you obtained. Whose financial records were those?

17 A. We obtained financial records of multiple individuals,
18 but -- including the defendant's.

19 Q. Any other individuals?

20 A. We also obtained records for -- related to executives of
21 CIF.

22 Q. Who were those executives?

23 A. Sam Pa, Lo Fung Hung, and Wei Xian Fei.

24 Q. Agent Killeen, did you obtain any other records in this
25 case?

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Killeen - Direct

1 A. We did.

2 Q. What were those records?

3 A. We obtained -- we obtained the records through a search
4 warrant, so we obtained various governments, through the search
5 warrants, and on the international side we also received
6 government documents from the Republic of Guinea.

7 Q. What kind of documents did you receive from the Republic of
8 Guinea?

9 A. We obtained multiple types of documents, but primarily
10 documents related to the CIF joint venture.

11 Q. What did you do when you received all these records that
12 you have mentioned today?

13 A. Well, we received the records and then they were basically
14 reviewed and analyzed, we tried to connect the dots.

15 Q. When Mr. Thiam was arrested --

16 A. Yes.

17 Q. -- were you present?

18 A. I was.

19 Q. Do you see Mr. Thiam in the courtroom today?

20 A. I do.

21 Q. Can you describe where he is sitting.

22 A. Second gentleman from the right wearing glasses and a blue
23 suit.

24 MS. LARYEA: Your Honor, may the record reflect that
25 the witness has identified the defendant.

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Killeen - Direct

1 THE COURT: Yes.

2 Q. After the defendant was arrested, did he speak with law
3 enforcement?

4 A. He did.

5 Q. When did the interview occur?

6 A. Same day as his arrest, shortly after his arrest.

7 Q. Were you present for that interview?

8 A. I was not.

9 Q. Was that interview videotaped?

10 A. It was.

11 Q. Did you review the video of that interview?

12 A. I did.

13 Q. I'd like to start with some information, some discussion
14 about the defendant's relationship with CIF.

15 A. Okay.

16 Q. During the investigation did you determine approximately
17 when the defendant first met executives of CIF?

18 A. Approximately May or June of 2009.

19 THE COURT: Excuse me. I'm going to strike that.
20 Stricken.

21 MS. LARYEA: Okay.

22 Q. Agent Killeen, when did the defendant first meet executives
23 from CIF?

24 THE COURT: Sustained.

25 Q. Agent Killeen, did you review emails in connection with

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Killeen - Direct

1 this? You mentioned you reviewed emails in connection with
2 this investigation, is that correct?

3 A. I did.

4 MS. LARYEA: Mr. Beer, will you please publish what
5 has been admitted as Government's Exhibit 502. Can you enlarge
6 the written text.

7 Q. Agent Killeen, have you seen this document before?

8 A. I have.

9 Q. What is it?

10 A. This is an email from the defendant to an email account
11 under the name of Bao-Wen Chen.

12 Q. And who is Bao-Wen Chen?

13 A. He is a business executive in China.

14 THE COURT: I'm sorry, counsel. I'm going to have
15 that stricken.

16 MS. LARYEA: All right.

17 Q. Agent Killeen, does the email mention when it was sent?

18 A. It does.

19 Q. Can you read the email into the record.

20 A. The email was sent on June 6, 2009.

21 Q. Can you read the email.

22 A. Oh, okay. "It's Mahmoud. How are you? I am now in
23 Guinea, Conakry, as minister of mines and energy. We have a
24 visit from a group called China Investment Fund, headed by Sam
25 Pa and Lo Fung Hung. Can you tell me if you know them or can

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Killeen - Direct

1 you find out. Much appreciated. Mahmoud Thiam."

2 Q. This email mentions Guinea, Conakry.

3 A. Yes.

4 Q. Do you know what Guinea, Conakry is?

5 A. Yes, Conakry is the capital of Guinea.

6 Q. How do you know that?

7 A. Well, through investigation, and I've also been to Conakry.

8 Q. The email mentions China Investment Fund.

9 A. Yes.

10 Q. It also mentions a Sam Pa.

11 A. Yes.

12 Q. And a Lo Fung Hung.

13 A. Yes.

14 Q. Agent Killeen, you mentioned that you reviewed the
15 postarrest statement.

16 A. I did.

17 Q. When the defendant was interviewed by FBI agents after his
18 arrest, did he say whether he met Sam Pa or Lo Fung Hung?

19 A. He did.

20 THE COURT: Sustained.

21 MS. LARYEA: Mr. Beer, will you please play clips 1
22 and 3 of the meeting -- of the postarrest statement.

23 THE COURT: Is there an exhibit number with this?

24 MS. LARYEA: Yes. It's part of Exhibit 801-A.

25 (Video played)

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Killeen - Direct

1 MS. LARYEA: Mr. Beer, please publish clip 1 from
2 Government Exhibit 801-A.

3 (Video played)

4 MS. LARYEA: Mr. Beer, will you please publish
5 Government Exhibit 503.

6 Can you enlarge the top part of the document.

7 BY MS. LARYEA:

8 Q. Agent Killeen, did you review this document?

9 A. I did.

10 Q. What is it?

11 A. This is an email from the defendant to an email account
12 for -- of Baker Al-Sadi.

13 Q. What is the date of this email?

14 A. June 13th of 2009.

15 MS. LARYEA: Mr. Beer, will you enlarge the bottom
16 email.

17 Q. Agent Killeen, could you read the section starting with,
18 "Had chairman of Sonangol."

19 A. "Had chairman of Sonangol here for two days with chairman
20 of China International Fund. Great prospects. More
21 important --"

22 Q. Sorry.

23 MS. LARYEA: Next page, please.

24 A. "-- developed great relationship with both, and you know
25 how hard it is to get Sonangol guy."

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Killeen - Direct

1 Q. And the date you said was June 13th?

2 A. Yes.

3 MS. LARYEA: Mr. Beer, will you please publish
4 Government's Exhibit 402.

5 Q. Have you ever seen that document?

6 A. I have.

7 MS. LARYEA: Sorry. 402-T, please.

8 Q. What is it?

9 A. This is the master agreement that was signed on June 12,
10 2009, between CIF and the Republic of Guinea.

11 MS. LARYEA: Mr. Beer, will you please publish page 4
12 of this document. Actually -- sorry -- please publish page 3
13 of the document. Please enlarge the section A.

14 Q. What does this document say that the parties have agreed
15 to? If you can just read that first section, just the part
16 until JVC, that first line.

17 A. Okay. "The parties have agreed to create a joint venture
18 through the incorporation of a company under the laws and
19 regulations of Singapore, provisionally entitled Sino-Guinean
20 Development Company SA, hereafter abbreviated as JVC."

21 MS. LARYEA: Mr. Beer, could you please go to page 5
22 of this document.

23 Could you please enlarge Section B. Including the
24 table underneath it.

25 Q. What is the percentage of interest in the JVC that CIF is

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Killeen - Direct

1 supposed to have, according to this document?

2 A. 75 percent.

3 Q. What is the percentage of the JVC that the government of
4 Guinea is supposed to have, according to this document?

5 A. Total of 25 percent.

6 MS. LARYEA: Mr. Beer, please publish the signature
7 page, which is the third to last page of this document.

8 Actually, please publish Government Exhibit 402. And the
9 signature page of this document, the third to last page.

10 Q. Does the signature page say who signed for --

11 MS. LARYEA: Can you enlarge the signatures, Mr. Beer,
12 please.

13 Q. Does it say who signed for Guinea?

14 A. For Guinea?

15 Q. Yes.

16 A. Yes, it's Captain Mamadou Sande.

17 Q. Does it have a name written of who signed for China
18 International Fund?

19 A. No, it does not.

20 Q. Okay.

21 MS. LARYEA: Mr. Beer, will you please publish
22 Government's Exhibit 504.

23 Q. Have you seen this email before?

24 A. I have.

25 Q. What is it?

H4r1thi3

Killeen - Direct

1 A. This is an email -- well, it's an email string originally
2 from Jimmy Leong to the defendant and then the defendant
3 forwards on this email to -- I believe back to Guinea.

4 Q. What is the date of this email?

5 A. The date of this email is July 2, 2009.

6 Q. And does the email --

7 MS. LARYEA: Mr. Beer, will you please publish the
8 first full paragraph of the email from Jimmy Leong. First
9 page. First full paragraph.

10 Q. Does this paragraph mention a visit?

11 A. Yes, it does.

12 Q. What does it say about a visit?

13 A. It reads, "In view of your coming visit to Singapore with
14 Mr. Sam Pa, we have taken the opportunity to organize some
15 documentation material for your advice and implementation for
16 the purpose of establishing our cooperation structure."

17 Q. Thank you. And who is this email to?

18 A. This email is to the defendant.

19 Q. This mentions a visit. During your investigation did you
20 determine whether the defendant actually took such a visit?

21 THE COURT: Sustained.

22 MS. LARYEA: Mr. Beer, will you please publish
23 Government's Exhibit 506. 506-T.

24 Q. Agent Killeen, did you review this document?

25 A. I have.

H4r1thi3

Killeen - Direct

1 Q. What is it?

2 A. This is an email from the defendant to the prime minister
3 of Guinea.

4 Q. Does it mention prime minister on this email?

5 A. Yes, it does.

6 MS. LARYEA: Mr. Beer, will you please enlarge the top
7 of the email through the second paragraph, the end of the
8 second paragraph.

9 Q. Does the email say the purpose of the email? Can you read
10 the sentence that says, "I have the honor."

11 A. "I have the honor to report back to you on our current
12 mission to Asia at the CIF."

13 Q. What date is this email?

14 A. This is July 9th of 2009.

15 Q. Does the defendant in this email say where he is?

16 A. He advised that he was in Singapore.

17 Q. Does the defendant in the email say when he arrived in
18 Singapore?

19 A. He advises that he was -- arrived in Singapore two days
20 prior to this email.

21 MS. LARYEA: Mr. Beer, will you please enlarge the
22 remainder of that email.

23 Q. In the email, does it mention anything that was supposed to
24 take place in Singapore?

25 A. Yes.

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Killeen - Direct

1 Q. What does it say?

2 A. The signing of required -- signing of some documents.

3 Q. Does it mention a ceremony?

4 A. Yes.

5 Q. What does it say about a ceremony?

6 A. It reads, "During the ceremony, the different corporate
7 partners of the group, which will be responsible for the
8 execution of different types of projects, gave a presentation
9 of their respective capacities and their views on the task to
10 be completed in Guinea as well."

11 Q. You mentioned the email said something about signing of
12 documents.

13 A. Yes.

14 Q. According to the email, reading the email, does it indicate
15 whether these documents have been signed?

16 A. It indicated that they had been signed by one party --

17 THE COURT: I'll let you direct the witness to the
18 passage.

19 MS. LARYEA: Okay.

20 Q. Can you read the section that starts with "Because."

21 A. "Because the documents required for Guinea's stake holding
22 in the company to be created have not arrived from Conakry yet,
23 it was decided to authorize Mr. Vincente to sign these
24 documents so we could return home. The Guinean and Chinese
25 parties decided to postpone signing these documents and to wait

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Killeen - Direct

1 for the arrival of the minister of state, along with the
2 required documents."

3 Q. Can you also please read the next paragraph.

4 A. "Another variable made this wait necessary. The documents
5 presented were again listing the initially discussed sharing of
6 85 percent for CIF and 15 percent for Guinea. It seemed to me
7 that the commission eventually chose -- eventually chose to
8 offer 20 or 25 percent. When I brought this up, I was told
9 that considering they will deploy or raise hundred percent of
10 the funding, this sharing out is imposed on them. I then
11 suggested as compensation that ADC not own 100 percent of these
12 local GDG subsidiaries but only up to 80 or 90 percent.
13 Therefore, it would allow the state to recover what was given
14 apropos the holding company. I left the board to assess the
15 situation and notify us of their decision. Mahmoud Thiam."

16 MS. LARYEA: Mr. Beer, will you please publish
17 Government's Exhibit 408. Could you please go to -- sorry.
18 Before you do that.

19 Q. Special Agent Killeen, have you reviewed this document?

20 A. I have.

21 Q. What is it?

22 A. This is the shareholder agreement between CIF Singapore,
23 China Sonangol International Singapore, and the Republic of
24 Guinea.

25 Q. What is the date on this document?

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Killeen - Direct

1 A. This is October 10th of 2009.

2 MS. LARYEA: Mr. Beer, will you please publish page 3.
3 Can you please enlarge Sections A and Section B.

4 Q. In this document could you please read the section A.

5 A. "Africa Development Corporation PTE LTD is a private
6 company with a limited liability incorporated in Singapore and
7 having a share capital of 1,000 USD and with 1,000 ordinary
8 shares of which 425 ordinary shares are legally and
9 beneficially owned by each of CIFS and CSIS and 150 ordinary
10 shares are legally and beneficially owned by the Republic of
11 Guinea."

12 Q. Does the email mention GDCs?

13 A. It does, in the next paragraph. "The ADC shareholders will
14 take all necessary steps to incorporate various subsidiaries in
15 the Republic of Guinea, each a "GDC" and collectively the
16 "GDCs," as wholly owned subsidiaries of ADC or as the parties
17 may agree, each of which shall be 85 percent directly owned by
18 ADC and 15 percent directly owned by the Republic of Guinea, or
19 such other percentages as may be agreed between the parties."

20 MS. LARYEA: Mr. Beer, will you please publish
21 Government's Exhibit 514-T.

22 Q. Agent Killeen, did you review this email?

23 A. I have.

24 MS. LARYEA: Can you please enlarge the text of the
25 email, Mr. Beer.

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Killeen - Direct

1 Q. What is this email? What is the first email in the chain?

2 A. The first email in the chain is from Lamine Fofana to the
3 defendant.

4 Q. What date is that email?

5 A. July 13th of 2009.

6 Q. Can you please read that first paragraph.

7 A. From the --

8 Q. Yes, the email which starts, "Attached herein."

9 A. "Attached herein please find the amendments to the ADC
10 bylaws. We would like to draw your attention to the fact that
11 the bylaws will be sent for comments to a law office already
12 selected by the government, so we need to wait for the latest
13 amendments before the signing. The same will apply to the
14 shareholders agreement that we will completed today before noon
15 UT."

16 Q. What is the subject of this email?

17 A. Subject are basically the ADC bylaws in the shareholder
18 agreement and the structure of the JVC.

19 Q. Now the second email in the chain. Who is it from?

20 A. It's from the defendant.

21 Q. And who is it to?

22 A. To Jimmy Leong.

23 Q. What is the subject of this email?

24 A. It's a --

25 THE COURT: Excuse me. Is the agent reading a

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Killeen - Direct

1 particular phrase or --

2 MS. LARYEA: Yes.

3 THE COURT: When he's answering that question, is he
4 reading from the document?

5 MS. LARYEA: He will. I will make that clear in my
6 question.

7 THE COURT: Okay. I don't want the witness'
8 characterization. I will permit him to read something.

9 MS. LARYEA: Understood.

10 BY MS. LARYEA:

11 Q. Can you read from the document, the email the defendant
12 sent to Mr. Jimmy Leong?

13 A. Okay. "Hi Jimmy. Please review attached proposed
14 amendments received from Guinea (in bold character). It's in
15 French but very superficial changes, it seems. Could you have
16 them check and give us your opinion. I am with Mme. Lo.
17 Minister Thiam."

18 MS. LARYEA: Mr. Beer, please publish Government's
19 Exhibit 516.

20 Q. Agent Killeen, have you reviewed this document?

21 A. I have.

22 MS. LARYEA: Mr. Beer, please go to the second page,
23 bottom email.

24 Q. On the bottom, do you see a From written?

25 A. I do.

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Killeen - Direct

1 Q. Can you read from the email who this email is from?

2 A. Mdm Lo.

3 Q. Just read what it says.

4 A. "Dear Friend, Attached is the --"

5 Q. I'm sorry. Just read next to the From what it actually
6 says.

7 A. Okay. I apologize. Lo FH.

8 Q. What is the date of this email?

9 A. This is August 4th of 2009.

10 Q. And next to the To, who is it written to?

11 A. It's to the email address of the defendant and Jack Cheung
12 at e-mail address reading jack@chinasonangol.com.

13 Q. What is the subject of this email?

14 A. It just says "Information."

15 Q. Can you please read the email.

16 A. "Dear friends, Attached is an email for your information.
17 Regard, Mdm Lo."

18 MS. LARYEA: Mr. Beer, will you please go to the third
19 page of this document. Can you enlarge the email.

20 Q. Can you read from the bottom. Is there a signature of who
21 sent that email?

22 A. Yes. The signature is of Andrea Hotter.

23 Q. Can you read the next two lines after that signature.

24 A. "News Editor, Commodities (EMEA) Dow Jones Newswires."

25 Q. Now returning to the top of this paragraph, this document.

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Killeen - Direct

1 Can you please read the beginning until the end of that first
2 paragraph.

3 A. Okay. "As mentioned on the telephone, I have some
4 questions regarding your work in Guinea. I have seen a copy of
5 the accord between yourselves and the Guinean government and
6 understand that you are creating a joint venture company to
7 develop projects in energy, water, electricity, transport,
8 housing, agriculture, fishing, and mining, as well as other
9 areas of common interest."

10 Q. Can you read the last paragraph starting with "Can I."

11 A. "Can I arrange to have a chat with someone at CIF about
12 this for a story I am writing for the Wall Street Journal."

13 MS. LARYEA: Mr. Beer, will you please go back to the
14 second page. Could you enlarge the middle of that page. Yes.

15 Q. Can you please read slowly the section that starts with,
16 "Dear Madame Lo."

17 A. "Dear Madame Lo, I am currently in New York visiting my
18 family for a few days and might come straight to HK from here.
19 I would like to bring a set of my wife's bedsheets for you and
20 Mr. Pa. Please visit her site saheliahome.com and pick a model
21 that you like. Best, Mahmoud."

22 MS. LARYEA: Mr. Beer, please go to the first page of
23 this email. Please enlarge the bottom email. What is the
24 first -- sorry, the bottom email. The email on the bottom of
25 the page. Starting with the -- no, above that. The whole

H4r1thi3

Killeen - Direct

1 email. Yes, right there.

2 BY MS. LARYEA:

3 Q. What does the first line of this email say?

4 A. The address or the text? The text portion?

5 Q. The text. The text. No, the address. Who is the first
6 line you see on this enlargement?

7 A. That is the email address of the defendant.

8 Q. And what is the next line, if you could just read it?

9 A. "Lo FH. Lo@chinasonangol.com."

10 Q. What is the date of this email?

11 A. August 30, 2009.

12 Q. What is the subject of the email?

13 A. "Re: Information."

14 Q. Can you read the text of that email.

15 A. Yes. Dear Mme Lo. It has been a long time since we last
16 communicated and I thought I would inquire. I hope all is well
17 with you. We are a bit concerned about the silence from CIF
18 side and the president is starting to ask questions. Could you
19 please advise us as to Sam's whereabouts."

20 MS. LARYEA: Mr. Beer, please enlarge the email right
21 above the one we reviewed.

22 Q. Who is this email from?

23 A. From Lo FH.

24 Q. And what is the date?

25 A. The date is August 31, 2009.

H4rlthi3

Killeen - Direct

1 Q. And next to the To sign, what is written?

2 A. That's the email address of the defendant.

3 Q. And next to the subject?

4 A. Re: Information.

5 Q. Can you please read the email.

6 A. "Dear Mahmoud, How are you? I'm okay. In Hong Kong. Hope
7 see you very soon. Mr. Sam was busy with family issue in the
8 last week. His father was very, very sick. This morning the
9 old man passed away. I hope he recovering from the hurt and
10 coming back to us."

11 MS. LARYEA: Mr. Beer, please publish the email on the
12 top of this document.

13 Q. Next to the From, what is written?

14 Next to the From --

15 A. Okay.

16 Q. -- what is written?

17 A. That is the email address of the defendant.

18 Q. And who is it to?

19 A. Lo FH.

20 Q. And what is the subject?

21 A. Condolences.

22 Q. What is the date of this email?

23 A. August 31st of 2009.

24 Q. Can you please read the email.

25 A. Yes. Dear Mme Lo. Please accept our deepest condolences

H4rl1thi3

Killeen - Direct

1 for the passing of Sam's father. Both the president and
2 Mr. Barry join me in this. Sincerely, Mahmoud."

3 MS. LARYEA: Mr. Beer, please publish Government's
4 Exhibit 517-T.

5 Could you please enlarge the text.

6 Q. On this email next to the From, can you please read what
7 that says.

8 A. The email address of the defendant.

9 Q. And next to the To, what does it say?

10 A. Bouba2.

11 Q. And the date of the email?

12 A. September 22nd of 2009.

13 Q. Can you please read the email.

14 A. Yes. "Tried to reach you from Conakry and throughout the
15 flight. I'm leaving Istanbul now. I'm calling you from HK. I
16 hope that everything is going well there."

17 Q. Agent Killeen, you mentioned that you reviewed some bank
18 records in this case, is that correct?

19 A. I did.

20 Q. And you mentioned that some of the bank records came from
21 HSBC Hong Kong, is that correct?

22 A. That's correct.

23 MS. LARYEA: I'd like, Mr. Beer, if you could please
24 publish Government's Exhibit 301-A.

25 Q. Agent Killeen, I am showing you what has been marked as

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Killeen - Direct

1 Government Exhibit 301-A.

2 A. Thank you.

3 Q. Have you seen this document before?

4 A. I have.

5 Q. And what is that document?

6 A. This is an account opening document for a bank account at
7 HSBC in Hong Kong.

8 Q. On that document does it say what date the account was
9 opened?

10 A. Yes, it does. It's September 24th of 2009.

11 Q. Again, looking at that document, does it say who the
12 account is for?

13 A. The account is listed under the name Mr. Thiam, Mahmoud.

14 Q. Does the document list the nationality of --

15 A. It does.

16 Q. What does it say next to Nationality?

17 A. It says France.

18 Q. Does the document list the address of the person opening
19 the account?

20 A. Yes.

21 Q. And what is the address listed on that document?

22 A. 340 East 64th Street, Apartment 14H, New York, New York
23 10065.

24 Q. Does the document list the email address?

25 A. It does.

H4r1thi3

Killeen - Direct

1 Q. What is the email address listed on that document?

2 A. The address we've seen before, mahmoud.thiam@gmail.com.

3 Q. Does the document list the occupation of Mr. Thiam?

4 A. It does.

5 Q. What does it say next to Occupation?

6 A. Consultant.

7 Q. Does the document list the employer of the defendant?

8 A. Yes.

9 Q. What does it list as the employer?

10 A. The employer is Mahmoud Thiam.

11 Q. Does the document state whether this employment,
12 consultant, which is what you said before, does it state
13 whether that is a part-time or full-time job?

14 A. It states that it's a full-time job.

15 Q. Does the document list the income of the defendant?

16 A. It does.

17 Q. What does it say next to income?

18 A. Per month, under the -- it's listed as indicated, income
19 per month, 200,000 or above.

20 Q. Does the document say what HSBC branch that account was
21 opened?

22 A. It does.

23 Q. What is the HSBC branch listed on that document?

24 A. Pacific Place HPC Branch.

25 Q. Please, does the document have identification of the

H4r1thi3

Killeen - Direct

1 defendant?

2 A. It does.

3 Q. Any kind of ID?

4 A. Yes, it does.

5 Q. Can you find that in the document.

6 A. It's indicated on the first page. Passport number, and it
7 provides the passport number of 08A153130, issued by France.

8 Q. Thank you.

9 MS. LARYEA: Please, Mr. Beer, go to page 5 of this
10 document. Please enlarge the bottom.

11 Q. And what is that?

12 A. That is a signature of the defendant.

13 MS. LARYEA: Mr. Beer, please go to page 6 of this
14 document.

15 Q. And what is that?

16 A. That is a copy of the passport presented at the account
17 opening.

18 Q. What country is that passport from?

19 A. France.

20 MS. LARYEA: Mr. Beer, will you please return to
21 page 1 of this document. Could you please enlarge the top part
22 of the document, up until --

23 Q. Now, Special Agent Killeen, you just testified about
24 nationality, occupation, income. Is this where you were
25 reading it from?

H4rlthi3

Killeen - Direct

1 A. Yes, I was.

2 Q. Okay.

3 MS. LARYEA: Mr. Beer, will you please publish
4 Government's Exhibit 305-A.

5 Could you please enlarge the top third of this
6 document.

7 Q. Agent Killeen, have you reviewed this document?

8 A. I have.

9 Q. What is it?

10 A. This is the account statement for the HSBC Hong Kong
11 account opened by the defendant on September 24th of 2009,
12 for the period ending October 23, 2009, the month.

13 Q. Does this statement have the defendant's name actually
14 written on it?

15 A. It does.

16 Q. And what is the address written?

17 A. 340 East 64th Street, Apartment 14H, New York, New York.

18 MS. LARYEA: Mr. Beer, please go to the second page,
19 and if you could please enlarge the section under Foreign
20 Currency Savings.

21 Q. Do you see the date September 25th written on this
22 document?

23 A. I do.

24 Q. What does it say next to September 26th?

25 A. Deposit.

H4r1thi3

Killeen - Direct

1 Q. And next to Deposit, does it say the amount that was
2 deposited?

3 A. Yes, it does. It says 3 million.

4 Q. It says 3 million was deposited.

5 THE COURT: Is that a question, counsel?

6 Q. Does it say 3 million was deposited?

7 A. Yes.

8 MS. LARYEA: Mr. Beer, will you please publish
9 Government's Exhibit 305-B.

10 Q. Agent Killeen, did you review this document?

11 A. I have.

12 MS. LARYEA: Mr. Beer, will you please enlarge the
13 first half of this document.

14 Q. Agent Killeen, could you please read -- under Hong Kong
15 Shanghai Banking Corporation, could you please read the section
16 that says Foreign Currency.

17 A. Foreign currency Counter Withdrawal Form.

18 Q. Does it have an account number listed on this document?

19 A. It does.

20 Q. Can you please read the last four digits of this account
21 number.

22 A. 1888.

23 Actually, my apologies. That's a 9. 9888.

24 Q. Under name of account to be credited, is there a name
25 written there?

H4r1thi3

Killeen - Direct

1 A. Yes.

2 Q. Can you please read that name.

3 A. Thiam, Mahmoud.

4 Q. Under the amount to be credited, can you please read that
5 amount.

6 A. 3 million.

7 Q. Now in the bottom, the next box, does it say the date that
8 this transfer took place?

9 A. If you go down, you can see the date. It's September 25,
10 2009.

11 Q. And next to that does it say the amount next to the date
12 that was transferred?

13 A. It does.

14 Q. What does it say?

15 A. US dollars, 3 million.

16 Q. And again, does it say who transferred that amount?

17 A. It does. Pa, Sam Nang.

18 Q. The next line, does it again have a date?

19 A. It does.

20 Q. What is that date?

21 A. September 25th of 2009.

22 Q. Does it have an account number that's receiving that money?

23 A. Yes, it does.

24 Q. Can you please read the last four digits of that account
25 number.

H4rlthi3

Killeen - Direct

1 A. 0888.

2 Q. Does it have the amount that's being deposited?

3 A. Yes, it does.

4 Q. Can you please read that amount.

5 A. US dollars 3 million.

6 Q. Does it mention who that amount is going to?

7 A. Yes, it does.

8 Q. Can you please read that name.

9 A. Thiam, Mahmoud.

10 Q. Does it have the signature? Going back up, under signature
11 of account to be deposited, does it have a signature?

12 A. It does.

13 MS. LARYEA: Mr. Beer, will you please publish side by
14 side Government's Exhibit 402-T -- sorry. 402, yes. Could you
15 go to the signature page of 402. Could you please enlarge the
16 signature of 402.

17 Can you please enlarge the signature on the account
18 withdrawal form. No, not that signature. The signature above.

19 Sorry, Mr. Beer. Can you enlarge horizontally the
20 whole section that includes that signature. Thank you.

21 Now, Mr. Beer, can you go to the -- thank you. Now,
22 Mr. Beer, could you go to the first page of Exhibit 402.

23 BY MS. LARYEA:

24 Q. And the document we just reviewed with that signature, what
25 is it?

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Killeen - Direct

1 A. On the right?

2 Q. Yes, on the right.

3 A. That is the, I believe -- if you could remove that. I just
4 want to make sure.

5 I believe that's the master agreement, dated June 12,
6 2009.

7 Q. Thank you.

8 MS. LARYEA: Mr. Beer, will you please publish
9 Government's Exhibit 305-C.

10 Q. Agent Killeen, did you review this document?

11 A. Yes, I did.

12 MS. LARYEA: Mr. Beer, will you please enlarge the
13 first third of this document.

14 Q. What is the document?

15 A. This is the account statement for another account at HSBC
16 Bank in Hong Kong, and the account holder is Mr. Pa, Sam Nang.

17 Q. Are you reading that from the document?

18 A. I am.

19 Q. Does it list the address under Mr. Pa, Sam Nang?

20 A. Pacific Place 2, Pacific Place, Hong Kong.

21 Q. Does it list the date of this account statement?

22 A. Yes, the date is for the month ending of 10 October of
23 2009.

24 MS. LARYEA: Mr. Beer, will you please go to page 2 of
25 this document. Will you please enlarge the section titled

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1 Foreign Currency Savings.

2 Q. Do you see a date September 25th?

3 A. I do.

4 Q. Next to that date what is written?

5 A. There is a withdrawal.

6 Q. What is written as the amount of the withdrawal?

7 A. 3 million.

8 Q. Do you see a date September 3rd written?

9 A. September 30th?

10 Q. 30th.

11 A. Yes, I do.

12 Q. What is written next to September 30th?

13 A. Deposit.

14 Q. Does the document have written the amount that was
15 deposited?

16 A. Yes. \$2,999,999.03.

17 THE COURT: Counsel, is this a good time for our
18 luncheon recess?

19 MS. LARYEA: Yes, your Honor.

20 THE COURT: Ladies and gentlemen, we'll break for
21 lunch. We'll resume at 2:00. Remember, do not discuss the
22 case. Thank you.

23 (Continued on next page)

24

25

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(Jury not present)

THE COURT: Mr. Kobre, anything we need to discuss?

MR. KOBRE: No, your Honor.

THE COURT: Mr. Goldsmith?

MR. GOLDSMITH: No, your Honor.

THE COURT: Okay. So thank you, Ms. Laryea. You understand, I think, what I'm doing.

MS. LARYEA: Yes.

THE COURT: We're not going to have any testimony about the investigation. This is a witness to display documents, the records that are otherwise received in evidence.

MS. LARYEA: Yes, your Honor.

THE COURT: Thanks so much.

Have a good lunch.

THE LAW CLERK: All rise.

(Luncheon recess)

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AFTERNOON SESSION

2:00 p.m.

THE COURT: Please be seated.

Bring in the jury.

(Jury present)

THE COURT: Counsel.

MR. DiMASE: Your Honor, before we continue with the testimony of Agent Killeen, we do have several stipulations we'd like to read into the record.

THE COURT: Great. Do you want to use the mike; do you want to go over there?

MR. DiMASE: I'd be happy to, your Honor.

THE COURT: Thank you.

MR. DiMASE: I have six stipulations, and I'll indicate the exhibit number and then go through each one. The first is Government Exhibit 1402, or marked as Government Exhibit 1402, and it reads, after the introductory paragraph:

"Government Exhibit 106 is a CD containing true and correct records maintained by Bank of America, N.A.

(hereinafter 'Bank of America') containing the following folders:

"A folder labeled Government Exhibit 106A containing true and correct records pertaining to Bank of America checking account No. 483031390526 in the name 771 Duell Road LLC;

"A folder labeled Government Exhibit 106B containing

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1 true and correct records pertaining to Bank of America checking
2 account No. 483031391172 in the name 771 Duell Road LLC.

3 "The information contained on Government Exhibit 106
4 was recorded by someone with knowledge at Bank of America at or
5 near the time of the activity that took place, was kept in the
6 course of regularly conducted activity of Bank of America, and
7 was made as a regular practice of that activity.

8 "It is further stipulated and agreed that this
9 stipulation, which is marked as Government Exhibit 1402, and
10 Government Exhibits 106, 106A, and 106B may be received in
11 evidence as government exhibits at trial."

12 The government would offer this stipulation,
13 Government Exhibit 1402, along with Government Exhibits 106,
14 106A and 106B into evidence.

15 THE COURT: Received.

16 (Government Exhibits 1402, 106, 106A and 106B received
17 in evidence)

18 MR. DiMASE: Moving to the second stipulation, marked
19 for identification as 1404, after the introductory paragraph,
20 it states:

21 "Government Exhibit 601 is a silver and white Apple
22 iPhone model A1633. Government Exhibit 601 was recovered on
23 December 13, 2016, from the defendant's residence and is in the
24 same, or substantially the same, condition as when it was
25 recovered from the defendant's residence on December 13, 2016.

H4r1lthi3

1 A special agent with the FBI's computer analysis response team
2 conducted a forensic analysis of the cellular telephone
3 contained in Government Exhibit 601.

4 "Government Exhibit 601A is a screenshot of messages
5 sent through WhatsApp, an instant-message application, which
6 were recovered from the cellular telephone contained in
7 Government Exhibit 601.

8 "Government Exhibit 601B are screenshots of phone
9 contacts, which were recovered from the cellular telephone
10 contained in Government Exhibit 601.

11 "It is further stipulated and agreed that this
12 stipulation, which is marked as Government Exhibit 1404, and
13 Government Exhibits 601A through 601B may be received in
14 evidence as government exhibits at trial."

15 Your Honor, the government would offer the
16 stipulation, Exhibit 1404, along with 601A and 601B into
17 evidence.

18 THE COURT: And not 601?

19 MR. DiMASE: Correct.

20 THE COURT: Received.

21 (Government Exhibits 1404, 601A and 601B received in
22 evidence)

23 MR. DiMASE: Moving on to the stipulation marked as
24 Government Exhibit 1410, it reads, after the introductory
25 paragraph:

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1 "Government Exhibit 1503 consists of true and correct
2 records maintained by Louis Vuitton relating to the purchase of
3 merchandise from the defendant, Mahmoud Thiam, on or about
4 April 16, 2011. The information contained in Government
5 Exhibit 1503 was recorded by someone with knowledge of Louis
6 Vuitton at or near the time the activity took place, was kept
7 in the course of regularly conducted activity of Louis Vuitton,
8 and was made as a regular practice of that activity.

9 "It is further stipulated and agreed that the
10 stipulation, which is marked as Government Exhibit 1410, and
11 Government Exhibit 1503 may be received in evidence as
12 government exhibits at trial."

13 Your Honor, the government offers the stipulation
14 marked as 1410 along with Exhibit 1503 into evidence.

15 THE COURT: Received.

16 (Government Exhibits 1410 and 1503 received in
17 evidence)

18 MR. DiMASE: Moving on to the stipulation marked for
19 identification as Exhibit 1413, it states, after the
20 introductory paragraph:

21 "Government Exhibit 1502 consists of true and correct
22 records maintained by The Mark, a luxury hotel located at
23 Madison Avenue and East 77th Street, New York, New York 10075,
24 (hereinafter 'The Mark') representing various charges billed
25 for lodging, meals, and other services provided by the hotel.

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1 The information contained in Government Exhibit 1502 was
2 recorded by someone with knowledge at The Mark at or near the
3 time the activity took place, was kept in the course of
4 regularly conducted activity of The Mark, and was made as a
5 regular practice of that activity.

6 "It is further stipulated and agreed that this
7 stipulation, which is marked as Government Exhibit 1413, and
8 Government Exhibit 1502 may be received in evidence as
9 government exhibits at trial."

10 The government would now offer Government Exhibit
11 1413, the stipulation, and Exhibit 1502 into evidence.

12 THE COURT: Received.

13 (Government Exhibits 1413 and 1502 received in
14 evidence)

15 MR. DiMASE: Moving along, the next stipulation is
16 marked for identification as Government Exhibit 1412, and it
17 begins, after the introductory paragraph:

18 "Government Exhibit 1501 consists of true and correct
19 records maintained by Steinway & Sons."

20 THE COURT: Am I right, counsel, that the rest of the
21 body includes what you've read to us already in terms of
22 authentic business records declarations?

23 MR. DiMASE: Yes, the second paragraph contains the
24 same business-record language regarding how the records were
25 kept, your Honor, but I didn't finish paragraph 1, actually.

H4r1lthi3

1 THE COURT: Great. Keep going.

2 MR. DiMASE: I'll skip paragraph 2.

3 THE COURT: Thank you.

4 MR. DiMASE: "Government Exhibit 1501 consists of true
5 and correct records maintained by Steinway & Sons relating to
6 the order, purchase, and delivery of a Steinway piano in or
7 about 2010."

8 The second paragraph is the business records language,
9 which I won't reread.

10 "It is further stipulated and agreed that this
11 stipulation, which is marked as Government Exhibit 1412, and
12 Government Exhibit 1501 may be received into evidence as
13 government exhibits at trial."

14 And your Honor, the government now offers Exhibit
15 1412, the stipulation, and Exhibit 1501 into evidence.

16 THE COURT: Received.

17 (Government Exhibits 1412 and 1501 received in
18 evidence)

19 MR. DiMASE: And finally, the stipulation marked for
20 identification as Exhibit 1415, after the preliminary
21 paragraph, states:

22 "Government Exhibit 105 is a CD containing true and
23 correct records maintained by Wachovia Bank, a division of
24 Wells Fargo Bank, N.A., pertaining to account No.
25 2000052634901, in the name Thomas C. McGregor, Esq. P.C. IOLA,

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1 attorney special account."

2 The second paragraph contains the same language
3 regarding business records, so he I won't reread it.

4 "It is further stipulated and agreed that this
5 stipulation, which is marked as Government Exhibit 1415, and
6 Government Exhibit 105 may be received in evidence as
7 government exhibits at trial."

8 And your Honor, the government offers the stipulation,
9 Exhibit 1415, along with Government Exhibit 105 into evidence
10 at this time.

11 THE COURT: Received.

12 (Government Exhibits 1415 and 105 received in
13 evidence)

14 MR. DiMASE: May I just have one moment, your Honor?
15 Thank you.

16 Your Honor, that concludes the stipulation we'd like
17 to read now, so we can proceed with the witness.

18 THE COURT: Thank you.

19 PATRICK KILLEEN, resumed.

20 MS. LARYEA: Mr. Beer, would you please publish
21 Government Exhibit 305 and please enlarge the top third of that
22 document.

23 Q. Agent Killeen, before the break, we were reviewing
24 Government Exhibit 305C, is that correct?

25 A. Yes.

H4r1thi3

1 Q. And you testified that this government exhibit is a bank
2 statement of a Mr. Pa Sam Nang, is that correct?

3 A. Yes.

4 Q. And that it was a statement for the date October 10, 2009,
5 is that correct?

6 A. Yes.

7 MS. LARYEA: Mr. Beer, please turn to the second page
8 of this exhibit, and please enlarge the section titled "foreign
9 currency savings."

10 Q. Agent Killeen, before the break, you testified that there
11 was a withdrawal on September 25 mentioned on this account
12 statement, is that correct?

13 A. Yes, I did.

14 Q. And the withdrawal was for \$3 million, is that correct?

15 A. Yes.

16 Q. Do you see a deposit on September 30?

17 A. I do.

18 Q. How much is that deposit for?

19 A. The deposit is for \$2,999,999.03.

20 MS. LARYEA: Mr. Beer, please enlarge the top third of
21 this page.

22 Q. Agent Killeen, do you see an account number written on the
23 top third of this page?

24 A. I do.

25 Q. Can you read the last four digits of that account number?

H4r1thi3

1 A. 9888.

2 MS. LARYEA: Mr. Beer, will you please publish
3 Government Exhibit 305D. Could you please enlarge the text on
4 that exhibit.

5 Q. Do you see a section called value date CCY code and amount?

6 A. I do.

7 Q. And what is the value date listed on this document?

8 A. It says September 30 of 2009.

9 Q. And what is the currency listed on this document?

10 A. U.S. dollars, USD.

11 Q. What is the amount listed on this document?

12 A. 3 million.

13 Q. Now, at the very top of the text, does it have an account
14 number listed?

15 A. Yes, it does.

16 Q. What are the last four digits of this account number?

17 A. 9888.

18 Q. Are those the last four digits of the bank account
19 statement we just reviewed?

20 A. They are.

21 MS. LARYEA: Mr. Beer, please go to the second page of
22 the exhibit.

23 Q. Agent Killeen, do you see a section titled "ordering
24 customer," under tag 50K, ordering customer and --

25 MS. LARYEA: Oh.

H4r1thi3

1 Q. Agent Killeen, I'm handing you what has been marked as
2 Government Exhibit 305D; second page of that exhibit, please.

3 A. Yes.

4 Q. Do you see a section that reads "ordering customer NA"?

5 A. I do.

6 Q. Who sent this deposit?

7 A. China Sonangol International Holding Ltd.

8 Q. And who is the deposit to?

9 A. Pa Sam Nang.

10 Q. And can you again read the last four digits of the account
11 number that received this deposit?

12 A. 9888.

13 Q. And next to tag 70, it provides some additional
14 information. What does it say about this deposit; what is
15 written?

16 A. Cash advance in Guinea.

17 Q. And on the top, does it say the date again?

18 A. September 30 of 2009.

19 Q. Agent Killeen, did you have an opportunity to examine all
20 of the HSBC Hong Kong records?

21 A. I did.

22 Q. How many pages were those records, approximately?

23 A. I believe between 2- and 3,000.

24 Q. After you examined those bank records, did you also examine
25 some summary charts depicting relevant transactions in those

H4r1thi3

1 records?

2 A. I did.

3 Q. Did the summary charts fairly and accurately duplicate and
4 summarize the information contained in the HSBC bank records?

5 A. They did.

6 MS. LARYEA: Your Honor, let the record reflect that
7 the Court has made HSBC bank records available to defense
8 counsel for examination --

9 THE COURT: That's OK, counsel. We do not need that
10 statement. Thank you very much.

11 MS. LARYEA: The government at this time offers
12 summary exhibits, Government Exhibit 1001, Government Exhibit
13 1002, and Government Exhibit 1003 into evidence.

14 THE COURT: Received.

15 (Government Exhibits 1001-1003 received in evidence)

16 MS. LARYEA: Mr. Beer, can you please publish
17 Government Exhibit 1002.

18 Q. Agent Killeen, on the right-hand side it depicts the
19 defendant's name, Mr. Thiam, M. Thiam, is that correct?

20 A. It does.

21 Q. And there's an account number listed underneath. What is
22 that account number?

23 A. Account number ending in 0888.

24 Q. With what bank?

25 A. HSBC.

H4r1thi3

1 Q. And it has a date underneath. What is that date?

2 A. The date is September 24 of 2009.

3 Q. And in the exhibits we reviewed just recently, September
4 24, 2009, what does that date signify?

5 A. That was the day that the HSBC account was opened.

6 MS. LARYEA: Mr. Beer, can you please go to the
7 following page. The next page, page 2.

8 Q. On this page, do you again see the defendant's name, M.
9 Thiam, listed?

10 A. I do.

11 Q. With that same HSBC account number, the last four digits?

12 A. I do.

13 Q. Do you see a Sam Pa listed?

14 A. I do.

15 Q. And the last four digits of the account number listed under
16 that name, can you please read that?

17 A. HSBC, last four digits of 9888.

18 Q. And that HSBC account last four digits 988, was that the
19 Sam Pa Nang account we just reviewed?

20 A. It was.

21 Q. Now, next to the name Sam Pa, there is an arrow that goes
22 to the box for Mr. Thiam. What does that -- does that arrow
23 have \$3 million listed?

24 A. It does.

25 Q. What is the date above that number?

H4r1lthi3

1 A. September 25 of 2009.

2 Q. And does that reflect the \$3 million transfer that we just
3 reviewed in HSBC account records?

4 A. It does.

5 Q. Under Mr. Thiam's name, it has September 25, 2009, is that
6 correct?

7 A. It does.

8 Q. And \$3 million underneath that?

9 A. Yes.

10 Q. Does that represent the \$3 million deposit that we saw in
11 the HSBC account we just reviewed on September 25?

12 A. Yes.

13 MS. LARYEA: Mr. Beer, please publish Government
14 Exhibit 408.

15 Q. Agent Killeen, have you seen this document?

16 A. I have.

17 Q. What is it?

18 A. This is the shareholders agreement signed by the Republic
19 of Guinea, CIF Singapore, and China Sonangol International
20 Singapore.

21 Q. What is the date written on this agreement?

22 A. October 10 of 2009.

23 Q. Is that about two weeks after September 25 --

24 A. It is.

25 Q. -- that the \$3 million was transferred?

H4r1thi3

1 A. It is.

2 MS. LARYEA: Mr. Beer, would you please publish
3 Government Exhibit 305E.

4 Q. Have you reviewed this document?

5 A. I have.

6 MS. LARYEA: Mr. Beer, can you please enlarge the
7 top-third part of the document.

8 Q. What is this document?

9 A. This is an account statement for the month ending March 23
10 of 2010 for the Hong Kong HSBC account of the defendant.

11 Q. Do you see an account number listed on this document?

12 A. I do.

13 Q. Can you please read the last four digits of that account
14 number?

15 A. 0888.

16 MS. LARYEA: Mr. Beer, can you please enlarge the
17 second half of this document. No, from below the pie chart.

18 Q. Under other accounts, can you read what is listed there?

19 A. HSBC premiere credit card.

20 Q. And can you please read the last four digits of that credit
21 card number?

22 A. 9766.

23 MS. LARYEA: Mr. Beer, can you please go to the second
24 page of this document, and can you please enlarge the section
25 foreign currency savings.

H4r1lthi3

1 Q. Do you see a March 15?

2 A. Yes, I do.

3 Q. And what does it say next to March 15?

4 A. Deposit.

5 Q. How much was deposited into this account on March 15?

6 A. \$3 million.

7 MS. LARYEA: Mr. Beer, can you please show Government
8 Exhibit 305F. Could you please enlarge the text.

9 Q. Agent Killeen, did you review this document?

10 A. I did.

11 Q. What is it?

12 A. It's a foreign currency account counter withdrawal form.

13 Q. And does it list the name of the account customer?

14 A. It does.

15 Q. Could you please read that name?

16 A. Wang Xiang-Fei.

17 Q. Does it list the account number?

18 A. It does.

19 Q. Could you please read the last four digits of that account
20 number?

21 A. 6888.

22 Q. Does this form list who is receiving the money?

23 A. It does.

24 Q. Could you please read that name?

25 A. Thiam Mahmoud.

H4r1lthi3

1 Q. Going to the typed text, does it say the date when this
2 transfer was sent?

3 A. March 15, 2010.

4 Q. And what are the last four digits of the account that sent
5 the transfer?

6 A. The account that received the money?

7 Q. That sent the transfer.

8 A. Oh, that sent the transfer, was 6888.

9 Q. And how much was sent?

10 A. \$3 million.

11 Q. Can you read the name of the person who sent the transfer?

12 A. Wang Xiang-Fei.

13 Q. Next line, what is the date that the transfer was received?

14 A. March 15, 2010.

15 Q. Can you read the last four digits of the account that
16 received the transfer?

17 A. 0888.

18 Q. And how much did that account receive?

19 A. \$3 million.

20 Q. And what is the name of the individual who received that
21 money?

22 A. Thiam Mahmoud.

23 MS. LARYEA: Mr. Beer, could you please publish
24 Government Exhibit 305H. Sorry. Can you please publish
25 Government Exhibit 305G. Could you please enlarge the top

H4r1thi3

third.

Q. Special Agent Killeen, have you reviewed this document?

A. I have.

Q. What is it?

A. This is the account statement for an HSBC bank account number name of Mr. Wang Xiang-Fei.

Q. And what are the last four digits of the account number?

A. 6888.

Q. What is the date of this account statement?

A. March 18 of 2010.

MS. LARYEA: Mr. Beer, can you please go to the third page.

Q. Focusing on the section titled "foreign currency savings" --

A. Yes.

Q. -- do you see a deposit on March 15?

A. I do.

Q. How much is that deposit for?

A. \$2,999,999.03.

Q. And on that same date, was a withdrawal made from this account?

A. Yes.

Q. How much was withdrawn?

A. \$3 million.

MS. LARYEA: Mr. Beer, could you please publish

H4r1thi3

Government Exhibit 305H.

Q. Agent Killeen, have you reviewed this document?

A. I have.

MS. LARYEA: Mr. Beer, can you please publish the top half of this document.

Q. Agent Killeen, what is this document?

A. This is a, actually a general activity report for a transfer of funds from HSBC.

Q. Now, the section that displays the amount, how much was transferred?

A. \$3 million.

Q. What is the date of that transfer?

A. The date of that transfer was March 15 of 2010.

Q. And who is the name of the individual who transferred the money?

A. You'd have to go down.

Q. Does it say account, credit account?

A. Yes, it shows the location of the account. The account is at HSBC or Hong Kong Shanghai Banking Corporation that made the transfer.

Q. Next to it, do you see a credit account?

A. I do.

Q. What does it list as the last four digits of that account?

A. 6888.

Q. And who is the name of the person receiving that money?

H4r1lthi3

1 A. Mr. Wang Xiang-Fei.

2 Q. And above that do you see debit account?

3 A. I do.

4 MS. LARYEA: Mr. Beer, can you please go to the second
5 page of this document.

6 Q. Do you see the section that says original instruction date?

7 A. I do.

8 Q. What is the date listed?

9 A. March 15, 2010.

10 Q. Does it have the name of the person sending the account,
11 the originator name?

12 A. Yes.

13 Q. What is the originator name listed?

14 A. China Sonangol limited -- international limited.
15 Apologies.

16 Q. Do you see the section called remittance account?

17 A. Remittance amount?

18 Q. Remittance amount.

19 A. Yes, I do.

20 Q. How much was sent?

21 A. \$3 million.

22 Q. Who received this money; does it say the beneficiary
23 account number?

24 A. Yes, it does.

25 Q. What are the last four digits of that account number?

H4r1thi3

1 A. 6888.

2 Q. Does it say the beneficiary's name?

3 A. It does.

4 Q. And who received this money?

5 A. Wang Xiang-Fei.

6 MS. LARYEA: Mr. Beer, can you please publish
7 Government Exhibit 1002, page 4.

8 Q. Now, Special Agent Killeen, we recently just went through
9 the top part of this exhibit, is that correct?

10 A. We did, yes.

11 Q. Now, focusing on the bottom part, do you see the name
12 Xiang-Fei?

13 A. I do.

14 Q. Do you see the account number listed under it?

15 A. I do.

16 Q. Can you please read the digits listed of that account
17 number?

18 A. HSBC account ending in 6888.

19 Q. Is that the same account number that we just saw in the
20 exhibits we went through?

21 A. It is.

22 Q. Next to Wang Xiang-Fei, do you see a March 15, 2010, date?

23 A. Yes.

24 Q. And do you see an amount underneath?

25 A. Yes.

H4rlthi3

1 Q. What is that amount?

2 A. \$2,999,999.

3 Q. Is that the same deposit into this account that we just saw
4 in the documents?

5 A. It is.

6 Q. And did that deposit, as we just saw in the documents, come
7 from China Sonangol International Ltd.?

8 A. It did.

9 MS. LARYEA: Mr. Beer, can you please go to the
10 following page, page 5.

11 Q. And on the right-hand side of Wang Xiang-Fei, do you see
12 that same date, March 15, 2010?

13 A. I do.

14 Q. And a \$3 million underneath?

15 A. Yes.

16 Q. And there's an arrow pointing to the defendant's account,
17 is that correct?

18 A. That's correct.

19 Q. And is that \$3 million sent on March 15, 2010, the same
20 transfer we just reviewed in the documents we just went
21 through?

22 A. Yes, it is.

23 Q. On the far right corner, underneath the defendant's name,
24 do you see a date?

25 A. Yes, I do.

H4r1thi3

1 Q. And what is that amount -- what is that date?

2 A. March 15, 2010.

3 Q. What's the amount listed underneath that date?

4 A. \$6 million.

5 Q. What does that amount represent?

6 A. That represents both wires that -- received in the account,
7 both the one above from the HSBC account in the name of Sam Pa
8 and the \$3 million received from the account of Wang Xiang-Fei.

9 Q. So does this represent, as of March 15, 2010, the defendant
10 had received a total of \$6 million from these two --

11 A. Yes.

12 MS. LARYEA: Mr. Beer, can you please publish
13 Government Exhibit 305I. Please enlarge the top third of this
14 document.

15 Q. Agent Killeen, have you seen this document?

16 A. I have.

17 Q. What is it?

18 A. This is a account statement for the bank account at HSBC
19 Hong Kong for the defendant.

20 Q. And what are the last four digits of this bank account?

21 A. 0888.

22 Q. What is the time period for this account statement?

23 A. For the month ending June 23, 2010.

24 MS. LARYEA: Mr. Beer, can you please go to the second
25 page. Could you please enlarge the section titled "foreign

H4r1thi3

1 currency savings."

2 Q. Agent Killeen, do you see a deposit on June 2?

3 A. I do.

4 Q. How much did this account receive on June 2?

5 A. \$2 million.

6 Q. And this is the account of the defendant, is that correct?

7 A. Correct.

8 MS. LARYEA: Mr. Beer, would you please publish
9 Government Exhibit 305J.

10 Q. Agent Killeen, have you seen this document?

11 A. I have.

12 Q. What is it?

13 A. This is a foreign currency account with -- counter
14 withdrawal form.

15 Q. Does this represent a transfer of money?

16 A. It does. It represents a transfer of funds from one HSBC
17 account to another.

18 MS. LARYEA: Mr. Beer, can you please enlarge the text
19 of this document.

20 Q. Now reading on the typed section, what is the date of this
21 transfer?

22 A. The date of this transfer is June 2 of 2010.

23 Q. What are the last four digits of the account sending the
24 money?

25 A. 1888.

H4r1lthi3

1 Q. What is the name of the individual who holds that account?

2 A. It's, if you look to the right, it's Lo Fung Hung and Pa
3 Sam Nang.

4 Q. And what is the amount being transferred?

5 A. \$2 million.

6 Q. Going to the following line, what is the date that this
7 transfer was received?

8 A. June 2, 2010.

9 Q. What are the last four digits of the account that received
10 this \$2 million?

11 A. 0888.

12 Q. And how much did this account receive?

13 A. \$2 million.

14 Q. And who received this \$2 million?

15 A. Thiam Mahmoud.

16 MS. LARYEA: Mr. Beer, can you please publish
17 Government Exhibit 305K.

18 Q. Agent Killeen, have you seen this document?

19 A. I have.

20 Q. What is it?

21 A. This is an account statement for the HSBC Hong Kong account
22 in the name of Lo Fung Hung and Pa Sam Nang.

23 MS. LARYEA: Mr. Beer, can you please enlarge the top
24 third of this exhibit.

25 Q. The names you just mentioned, do you see them on this

H4r1lthi3

document?

A. I do.

Q. And what are the last four digits of the account number?

A. 1888.

Q. What is the date of this account statement?

A. June 7, 2010.

MS. LARYEA: Mr. Beer, can you enlarge the bottom of the page that is titled "foreign currency savings."

Q. Agent Killeen, do you see a withdrawal from this account on June 2?

A. I do.

Q. And how much was withdrawn on that date?

A. \$2 million.

MS. LARYEA: Mr. Beer, can you please publish Government Exhibit 305L.

Q. Agent Killeen, have you seen this document before?

A. I have.

Q. What is it?

A. This is a bank account statement for the account of HSBC Hong Kong bank account in the name of Lo Fung Hung and Pa Sam Nang.

MS. LARYEA: Mr. Beer, can you please enlarge the top third of this exhibit.

Q. What are the last four digits of the account number?

A. 1888.

H4r1lthi3

1 Q. What is the date of this account statement?

2 A. November 7 of 2009.

3 MS. LARYEA: Mr. Beer, can you please enlarge the
4 section called foreign currency savings.

5 Q. Agent Killeen, do you see a deposit into this account on
6 October 9, 2009?

7 A. I do.

8 Q. How much did this account receive on that date?

9 A. \$19,999,999.03.

10 MS. LARYEA: Mr. Beer, will you please publish
11 Government Exhibit 305M. Can you please enlarge the text.

12 Q. Do you see an account -- Agent Killeen, have you seen this
13 document before?

14 A. I have.

15 Q. What is it?

16 A. This is a summary of an account transfer.

17 Q. Do you see an account number listed on the top?

18 A. I do.

19 Q. What is that account number, last four digits?

20 A. Account ending in 1888.

21 Q. Do you see a section called value date currency code and
22 amount?

23 A. I do.

24 Q. What is the date this transfer was made?

25 A. It appears October 9 of 2009.

H4r1thi3

1 Q. How much was transferred?

2 A. \$20 million.

3 Q. Who sent the money?

4 A. China Sonangol International Ltd.

5 Q. Does it list the beneficiary who received the money?

6 A. It does.

7 Q. What are the names listed of the person who received the
8 money?

9 A. Lo Fung Hung and Pa Sam Nang.

10 Q. Does it have a section called remittance information, rem
11 info?

12 A. I do.

13 Q. And what does it say next to the remittance information?

14 A. It says cash advance in West Africa.

15 MS. LARYEA: Mr. Beer, could you please publish
16 Government Exhibit 1002, page 6.

17 Q. Agent Killeen, we've already walked through the top and
18 bottom part of this document, is that correct?

19 A. That's correct.

20 Q. Now, focusing on the middle section --

21 A. OK.

22 Q. -- do you see a Sam Pa/Hung?

23 A. Yes.

24 Q. Do you see an account number listed under the names?

25 A. I do.

H4r1lthi3

1 Q. What are the last four digits of that account number?

2 A. 1888.

3 Q. Are they the same last four digits of the account belonging
4 to Lo Fung Hung and Sam Pa Nang that we just reviewed?

5 A. It is.

6 Q. To the left, do you see a date listed?

7 A. I do.

8 Q. What is that date?

9 A. October 9, 2009.

10 Q. What is the amount listed under that date?

11 A. \$19,999,999.

12 Q. Is that the same amount we saw deposited into the account
13 of Sam Pa Nang and Lo Fung Hung from China Sonangol on October
14 9, 2009?

15 A. It is.

16 MS. LARYEA: Mr. Beer, can you please go to the
17 following page.

18 Q. Now, to the right of Sam Pa and -- Sam Pa/Hung, do you see
19 an arrow leading to the defendant?

20 A. I do.

21 Q. What is the date listed on that arrow?

22 A. June 2, 2010.

23 Q. What is the amount listed under that?

24 A. \$2 million.

25 Q. Does that represent the \$2 million that was transferred

H4r1thi3

1 from the account of Sam Pa Nang and Lo Fung Hung to the
2 defendant on June 2, 2010, that we just reviewed in the bank
3 records?

4 A. Yes.

5 Q. Now going all the way to the right, back to the box that
6 has the defendant's name, do you see a date in that box?

7 A. I do.

8 Q. What is that date?

9 A. June 2 of 2010.

10 Q. Do you see a number underneath that date?

11 A. I do.

12 Q. What is that number?

13 A. \$8 million.

14 Q. What does that number represent?

15 A. That's the sum total of the transfers into the HSBC Hong
16 Kong account of the defendant on September 25 of 3 million,
17 March 15 of 3 million, and June 2 of 2 million, so for a total
18 of 8 million.

19 Q. All from Sam Pa, Sam Pa/Hung, and Xiang-Fei's bank
20 accounts, is that correct?

21 A. Correct.

22 MS. LARYEA: Mr. Beer, can you please publish
23 Government Exhibit 305N.

24 Q. Agent Killeen, have you reviewed this document?

25 A. I have.

H4r1thi3

1 Q. What is it? Before you answer that --

2 MS. LARYEA: Mr. Beer, can you please enlarge the top
3 third of this page. Thank you.

4 Q. What is this document?

5 A. It's an account statement for the HSBC Hong Kong bank
6 account of the defendant.

7 Q. And what are the last four digits of the account number?

8 A. 0888.

9 Q. What is the date of this account statement?

10 A. December 23 of 2010.

11 MS. LARYEA: Mr. Beer, can you please go to the second
12 page and enlarge the section titled "foreign currency savings."

13 Q. Agent Killeen, do you see a deposit into this account on
14 November 29, 2010?

15 A. I do.

16 Q. How much was deposited into the defendant's account on that
17 date?

18 A. \$500,000.

19 MS. LARYEA: Mr. Beer, can you please publish
20 Government Exhibit 3050.

21 Q. Agent Killeen, have you seen this document before?

22 A. I have.

23 Q. What is it?

24 A. This is a, what they call a counter deposit form. It's
25 basically to transfer funds from one account to another.

H4r1lthi3

1 Q. Looking at this account, the printed section --

2 A. OK.

3 Q. -- what is the date of this transfer?

4 A. November 29 of 2010.

5 Q. And who is receiving this transfer? What are the last four
6 digits of the account number listed?

7 A. 0888.

8 Q. And what is the amount that is being received?

9 A. \$500,000.

10 Q. And who received this \$500,000?

11 A. Thiam Mahmoud.

12 Q. And on the top section of this wire transfer form, it has
13 an account number. There are two account numbers?

14 A. There are.

15 Q. Do you see the account number on the top?

16 A. I can.

17 Q. Do you see the account number on the bottom?

18 A. I can.

19 Q. What are the last four digits of the account number?

20 A. On the top or the bottom?

21 Q. The bottom.

22 A. The bottom is 1888.

23 Q. Is that number, 1888, the same account -- last four digits
24 of the account number of the Lo Fung Hung and Sam Pa Nang
25 account we just reviewed?

H4r1lthi3

1 A. It is.

2 MS. LARYEA: Mr. Beer, can you please publish
3 Government Exhibit 305P.

4 Q. Agent Killeen, have you seen this document?

5 A. I have.

6 Q. What is it?

7 A. This is the account statement for an HSBC Hong Kong bank
8 account in the name of Lo Fung Hung and Pa Sam Nang.

9 Q. And what is the account number, the last four digits?

10 A. 1888.

11 Q. What is the date of this bank statement?

12 A. December 7 of 2010.

13 MS. LARYEA: Mr. Beer, will you please enlarge the
14 bottom part of this page titled "foreign currency savings."

15 Q. Agent Killeen, do you see a withdrawal from this account on
16 November 29?

17 A. I do.

18 Q. And how much was withdrawn from Sam Pa and Lo Fung Hung's
19 account on this date?

20 A. \$500,000.

21 Q. And above this withdrawal, do you see a deposit on November
22 26, 2010?

23 A. I do.

24 Q. How much was deposited into the Lo Fung Hung and the Pa Sam
25 Nang account on this date?

H4r1thi3

1 A. \$10,587,499.03.

2 MS. LARYEA: Mr. Beer, will you please publish
3 Government Exhibit 305Q.

4 Q. Agent Killeen, have you seen this document?

5 A. I have.

6 Q. What is it?

7 A. This is another HSB statement that provides a summary of a
8 wire.

9 Q. And on this statement, do you see a section called ordering
10 customer?

11 A. I do.

12 Q. And who is sending the money?

13 A. China Sonangol International Ltd.

14 Q. And do you see on the amount how much was sent on that day?

15 A. \$10,587,500.

16 MS. LARYEA: And if you could please enlarge the
17 bottom part of this document, Mr. Beer.

18 Q. Do you see the beneficiary customer, the person who
19 received this amount?

20 A. Yes, I do.

21 Q. And who received this amount?

22 A. Ms. Lo Fung Hung and Mr. Pa Sam Nang.

23 Q. What are the last four digits of the account number?

24 A. 1888.

25 Q. And this is the same account that we just reviewed the bank

H4r1thi3

1 statement for?

2 A. It is.

3 MS. LARYEA: Mr. Beer, can you please publish
4 Government Exhibit 1002, page 8.

5 Q. Agent Killeen, we've gone over the first three transfers of
6 money from Sam Pa, Sam Pa/Hung, and Xiang-Fei into the
7 defendant's account, is that correct?

8 A. We have.

9 Q. Now to the fourth transfer, do you see under, next to, to
10 the left of Sam Pa/Hung an arrow on the bottom?

11 A. I do.

12 Q. What is the date of that amount?

13 A. November 26 of 2010.

14 Q. What is the amount listed?

15 A. \$10,587,499.

16 Q. Does this represent the \$10,587,499 that the Sam Pa and Lo
17 Fung Hung account received from China Sonangol on November 26,
18 2010?

19 A. Yes, it does.

20 MS. LARYEA: Mr. Beer, can you please go to the
21 following page.

22 Q. Do you see an arrow to the right of Sam Pa/Hung on the
23 bottom?

24 A. I do.

25 Q. What is the date on that arrow?

H4r1thi3

1 A. November 29 of 2010.

2 Q. And what is the amount listed?

3 A. \$500,000.

4 Q. And what does that arrow represent?

5 A. That arrow represents the transfer of funds from the
6 account of Sam Pa and Lo Fung Hung to the defendant's. Both
7 had HSBC Hong Kong accounts.

8 Q. And how much was transferred from that account to the
9 defendant on November 29, 2010?

10 A. \$500,000.

11 Q. Now do you see the box all the way to the right with the
12 defendant's name?

13 A. I do.

14 Q. Do you see a date in that box?

15 A. I do.

16 Q. What is that date?

17 A. November 29 of 2010.

18 Q. And do you see a number underneath that date?

19 A. I do.

20 Q. What is that number?

21 A. \$8,500,000.

22 Q. What do that date and number represent?

23 A. That represents the sum of the four transfers into the
24 account that are detailed in this form: 3 million, 2 million,
25 500,000, and 3 million.

H4r1thi3

1 Q. All from the Sam Pa, Sam Pa and Lo Fung Hung accounts and
2 Xiang-Fei into the defendant's HSBC Hong Kong account, is that
3 correct?

4 A. Correct.

5 MS. LARYEA: Mr. Beer, can you please publish
6 Government Exhibit 535.

7 Q. Agent Killeen, have you seen this document before?

8 A. I have.

9 Q. What is it?

10 A. This is an email from the defendant to Reme Aring at
11 ChaseBank.

12 Q. What is the subject line of this email?

13 A. The word "answers."

14 Q. What date was this email sent?

15 A. March 26 of 2010.

16 Q. Are there any attachments listed?

17 A. There are.

18 Q. What is the first attachment listed?

19 A. Chase -- I'll say compl.doc.

20 Q. Can you please read the message from the defendant to Reme
21 Aring?

22 A. "Dear Reme, please find the attached answer to your
23 questionnaire. I have requested some invoices from Nick
24 Dearden. I will send you a separate email with a full
25 description of my business relationship with Baker Al-Sadi.

H4r1thi3

1 Best, Mahmoud Thiam."

2 Q. Can you remind the jury who Remeé Aring is?

3 A. Remeé Aring was an investigator with ChaseBank.

4 MS. LARYEA: Mr. Beer, could you please go to the
5 second page of this document. Could you please enlarge the top
6 half of this page. No, including the address.

7 Q. What is the name listed on the top of this document?

8 A. Mahmoud Thiam.

9 Q. Can you please read the first two lines after the address?

10 A. 34 --

11 Q. Sorry. After the address, after the account number, can
12 you please read the first two lines, starting "Dear Remeé"?

13 A. "Dear Remeé, please find below answers to your questions."

14 MS. LARYEA: Mr. Beer, can you please go to the bottom
15 of the page.

16 Q. Agent Killeen, can you please read that paragraph?

17 A. I can. "Over the past 15 months I have taken a leave from
18 my banking job at UBS and accepted an 18-month position as
19 minister of mines and energy in the Republic of Guinea. I take
20 no salary for that job and have been maintaining my family in
21 New York from my savings, hence the wires from my HSBC account
22 to my Chase account. The funds in that account are derived
23 from business transactions done over the years with
24 Mr. Al-Sadi."

25 MS. LARYEA: Mr. Beer, can you please publish

H4r1thi3

1 Government Exhibit 533. Could you please highlight the top
2 half of this document.

3 Q. Agent Killeen, have you seen this document before?

4 A. I have.

5 Q. What is it?

6 A. This is an email from the defendant to Baker Al-Sadi.

7 Q. What is the date of this email?

8 A. March 26 of 2010.

9 Q. What does it say under the line?

10 A. Which line?

11 Q. The line underneath the date.

12 A. Mahmoud Thiam.

13 Q. And can you please read the first two lines starting with
14 "Dear Reme"?

15 A. "Dear Reme, please find below answers to your questions."
16 Go ahead.

17 Q. Now, you said the date of this email is March 26, 2010, is
18 that correct?

19 A. That's correct.

20 Q. Is that the same date we just saw on the email we just
21 reviewed from the defendant to Reme Aring?

22 A. Yes.

23 MS. LARYEA: Mr. Beer, can you please publish
24 Government Exhibit 534.

25 Q. Agent Killeen, have you seen this document before?

H4rlthi3

1 A. I have.

2 Q. What is it?

3 A. This is a string of emails back and forth between the
4 defendant and Baker Al-Sadi.

5 MS. LARYEA: Mr. Beer, can you please go to the, can
6 you please enlarge the bottom half -- sorry, the last third of
7 this document.

8 Q. Who is this email from?

9 A. This is from the defendant to Baker Al-Sadi.

10 Q. What is the date of this email?

11 A. March 26 of 2010.

12 Q. And who is -- is this the same date of the email we just
13 saw?

14 A. Yes, it is.

15 MS. LARYEA: Mr. Beer, could you please go to the
16 second page of this document and enlarge the first third.

17 Q. Can you please read the first two lines?

18 A. "Dear Remee, please find below answers to your questions.

19 "Hello, Mahmoud. Thank you for providing us your
20 information. Please use the above email address to send your
21 document."

22 MS. LARYEA: Mr. Beer, can you please return to the
23 first page of this document. Can you enlarge the document up
24 until the email string we just reviewed.

25 Q. I want to start from the bottom working our way up

H4r1thi3

1 chronologically.

2 A. OK.

3 Q. The email on the bottom, who is it from?

4 A. That's from Baker Al-Sadi to the defendant.

5 Q. What is the date of that email?

6 A. March 26, 2010.

7 Q. Can you please read the response of Baker Al-Sadi to the
8 defendant?

9 A. "Looks fine if they don't dig too deep. We can justify
10 sogora gabon, etc., to show real transactions."

11 Q. Do you see the next email chain?

12 A. Yes.

13 Q. Who is it from?

14 A. That's from the defendant to Baker Al-Sadi.

15 Q. What is the date of that email?

16 A. March 26, 2010.

17 Q. Can you please read the defendant's response?

18 A. "Cool. How do I treat your answers, just attach them?"

19 Q. Do you see the next email in the string?

20 A. I do.

21 Q. The top email, who is that from?

22 A. That's from Baker Al-Sadi to the defendant.

23 Q. What is the date of that email?

24 A. March 26, 2010.

25 Q. Can you please read what Baker Al-Sadi said to the

H4r1thi3

defendant?

A. "Buy some time by saying you asked me to send them to you, and we'll see if they follow up."

MS. LARYEA: Now, Mr. Beer, can you please publish Government Exhibit 1002, the last page.

Q. Agent Killeen, we just went through the transfers that came into the defendant's account during this time period, is that correct?

A. Yes.

Q. Is the name Baker Al-Sadi on this document?

A. No.

Q. Now I want to talk about expenditures from the defendant's Hong Kong account.

A. OK.

MS. LARYEA: Mr. Beer, will you please publish Government Exhibit 1001.

Q. Agent Killeen, you testified that you reviewed the HSBC bank records when you reviewed them, is that correct?

A. I did.

Q. Now, starting with this document, all the way to the left, do you see the defendant's name, M. Thiam?

A. I do.

Q. And underneath, do you see HSBC-0888?

A. I do.

Q. Is that the last four digits of the defendant's Hong Kong

H4r1thi3

1 bank account that we just reviewed recently?

2 A. Yes.

3 Q. Bank records?

4 A. Yes.

5 Q. And underneath do you see four transactions?

6 A. I do.

7 Q. Starting from September 25, 2009, to November 29, 2010, is
8 that correct?

9 A. That's correct.

10 Q. What do those four transactions represent?

11 A. Those four transactions represent what we just reviewed,
12 the four transactions into the account of Mahmoud Thiam from
13 accounts of Sam Pa, Sam Pa/Lo Fung Hung, and Wang Xiang-Fei.

14 Q. Now moving to the right of this document, there are a
15 number of arrows.

16 A. Yes.

17 Q. What do these -- let's start with, do these arrows
18 represent expenditures from the defendant's Hong Kong HSBC
19 account?

20 A. Yes.

21 Q. Now, I wanted to take one example, the second example.
22 What is the number listed there?

23 A. Second from the top?

24 Q. Second from the top.

25 A. \$133,721.

H4r1lthi3

1 Q. And to the right of that arrow?

2 A. It says interior design and houseware.

3 Q. And what does that arrow, that section, second section from
4 the top represent?

5 A. Expenditures relating to basic goods inside of a -- or
6 interior design or goods that go inside of a home.

7 Q. Is that saying that there was \$133,721 spent on interior
8 design and houseware from the defendant's Hong Kong HSBC bank
9 account?

10 A. It does.

11 MS. LARYEA: Mr. Beer --

12 Q. Do you see the second logo in the section, next to interior
13 design and houseware.

14 A. I do.

15 Q. What does that logo say?

16 A. Steinway.

17 MS. LARYEA: Mr. Beer, would you please publish
18 Government Exhibit 1501. Could you please go to the second
19 page. Could you enlarge that middle section.

20 Q. Do you see a date, that first date listed?

21 A. The first, the date listed?

22 Q. Yes.

23 MS. LARYEA: Your Honor, may I view the screen?

24 Q. What is the first item listed under description?

25 A. "O GRD," or grand, "ebony."

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1 Q. And what is the price of this item?

2 A. \$62,600.

3 Q. And going to the third item on the list, what is it? Can
4 you please read that next to the number, under description, the
5 one that starts with GP?

6 A. "GP-163ES (MES) satin ebony."

7 Q. And does that appear to be a credit all the way to end of
8 that negative sign?

9 A. Yes.

10 Q. Can you read that number, minus?

11 A. -15260.

12 Q. And what is the total listed at the very bottom of this
13 invoice?

14 A. Including tax, \$47,375.41.

15 MS. LARYEA: Mr. Beer, could you please enlarge the
16 top part of this document. Sorry. Including the logo.

17 Q. Agent Killeen, who is -- what is this document?

18 A. This is an invoice from Steinway & Sons.

19 Q. And who is the invoice billing?

20 A. Fatim Thiam.

21 Q. What is the address listed under Fatim Thiam's name?

22 A. 340 East 64th Street, apartment 14H, New York.

23 Q. What is the date of this invoice?

24 A. September 9 of 2010.

25 Q. And you just testified that the invoice total was

H4r1thi3

1 \$46,375.41, is that correct?

2 A. 47,000.

3 Q. Sorry. 47,000.

4 A. Yes.

5 Q. \$47,375.41, is that correct?

6 A. That's correct.

7 THE COURT: Counsel, choose a good time for our
8 afternoon recess.

9 MS. LARYEA: Now is a perfectly good time, your Honor.

10 THE COURT: Ladies and gentlemen, let Ms. Rojas know
11 when you're ready to resume.

12 (Continued on next page)

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H4r1thi3

1 (In open court; jury not present)

2 THE COURT: Mr. Kobre, anything to discuss during the
3 break?

4 MR. KOBRE: No, your Honor.

5 THE COURT: Mr. Goldsmith.

6 MR. GOLDSMITH: No, your Honor.

7 THE COURT: Thanks.

8 (Recess)

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H4r1thi5

(In open court; jury not present)

THE COURT: The jury is ready. We have an issue?

MR. GOLDSMITH: Yes, your Honor. The government reminded me a few moments ago, or showed me a portion of cellphone extractions of a text conversation from the defendant's phone that it was going to address in the remaining portion of the agent's testimony today. And it was apparently an oversight of mine earlier. I did not notice that it mentioned the incarceration of Sam Pa. The parties have discussed previous, in preparation of the trial and during the engagement, to try and avoid the mentioning of Mr. Pa's incarceration for obvious prejudicial reasons.

THE COURT: Where is he incarcerated?

MR. KOBRE: Your Honor, our understanding is that he's incarcerated in China.

MR. GOLDSMITH: My concern at this point is, now seeing the mention, not only of having the matter an exhibit but also of having the agent highlight it by testifying at trial before the jury, that it would be unduly prejudicial for the mentioning of Mr. Pa's incarceration, at least with the jury, because it would (A) lead to speculation and (B) allow for the jury to speculate as to why Mr. Pa was incarcerated. It's a host of issues that have previously been totally unaddressed before the jury through the witnesses.

THE COURT: So this is a 2016 communication in 601-A,

H4r1thi5

1 if I understand that correctly, November 8, 2016.

2 What's the government's position here?

3 MR. DiMASE: Your Honor, a couple of points. I don't
4 recall actually having the discussion about keeping the arrest
5 of Sam Pa out of the trial with Mr. Goldsmith. I understand
6 the potential issue implicated by that evidence coming out.

7 That said, a couple, of additional things. It is
8 currently in evidence. It doesn't mean it can't be redacted,
9 but it was introduced pursuant to the stipulation. And I think
10 the bottom line is, the defendant's statement -- and to be
11 clear, this came from a cellphone that was recovered by the FBI
12 from the defendant's residence on the day of the defendant's
13 arrest. So these are messages that were on his phone, and it
14 is clear that the messages that say MHT, that phone number is
15 the phone number associated with Mr. Thiam and that those are
16 messages sent by Mr. Thiam and then there's another party to
17 this conversation, obviously, Nyonga Fongang. The defendant's
18 final statement, or I should say What's App message, cannot be
19 understood without the context of the statement made by
20 Mr. Nyonga Fongang regarding the fact that Mr. Sam Pa was
21 locked up. So it's absolutely necessary for the jury to
22 understand the defendant's response.

23 That being said, the government would not object to a
24 limiting instruction that the jury is not to speculate or draw
25 any negative inference against this defendant because Mr. Sam

H4r1thi5

1 Pa has been arrested or that there's been evidence presented to
2 that effect. I don't think that would be inappropriate. But I
3 do think it's necessary to explain the context of this text
4 message.

5 THE COURT: Well, you know, is it coming into the
6 record why Mr. Pa was arrested?

7 MR. KOBRE: No.

8 MR. DiMASE: No, your Honor.

9 THE COURT: Okay.

10 MR. DiMASE: I think the clear implication of the
11 messages is that it may have something to do with what happened
12 here because Mr. Thiam says, "He predicted I would be locked
13 up. Life has its twists."

14 And this is, by the way, in the context of a
15 discussion about a book, which is referred to as Looting in
16 Africa, which the name of the book is contained in the second
17 message here. So there are linkages back to this case even
18 though these messages are in 2016.

19 THE COURT: Well, it's highly probative to admit the
20 defendant's statement at the bottom of 601-A. "He predicted I
21 would be locked up. Life has its twists." And so I am going
22 to admit this, or allow it to remain admitted. I'm not going
23 to require it to be redacted.

24 Do you want a limiting instruction, Mr. Goldsmith, or
25 not?

H4r1thi5

Killeen - Direct

1 MR. GOLDSMITH: Yes, under the circumstances.

2 THE COURT: And should it be something along these
3 lines, that the jury is not to speculate as to the reasons for
4 Mr. Pa being incarcerated?

5 MR. GOLDSMITH: Yes. Not to speculate and that it is
6 not part of their -- they are not to speculate and it is not
7 part of their analysis of the evidence in this case.

8 THE COURT: That latter one is a little confusing to
9 me. I'm trying to understand. If it's coming in, then the
10 statement is considered to put in context the defendant's
11 statement. I'd be happy to say that.

12 MR. GOLDSMITH: That's fine.

13 THE COURT: Okay. And they're not to speculate as to
14 how, when, or why Mr. Pa ended up being incarcerated; or,
15 indeed, that he is. I mean, they don't have to take this
16 statement for the truth.

17 MR. GOLDSMITH: Right. Yes.

18 THE COURT: Great. Bring in the jury.

19 (Continued on next page)
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H4rlthi5

Killeen - Direct

1 (Jury present)

2 THE COURT: Counsel, you may proceed.

3 MS. LARYEA: Thank you, your Honor.

4 BY MS. LARYEA:

5 Q. Agent Killeen, we were in the middle of reviewing some
6 expenditures from the defendant's HSBC Hong Kong account, is
7 that correct?

8 A. Yes.

9 MS. LARYEA: Mr. Beer, could you please display
10 Government's Exhibit 1001.

11 THE WITNESS: Not coming up on my screen.

12 THE COURT: Does the jury have 1001 on your screen?
13 No.

14 THE WITNESS: Hold on. It's fixed.

15 THE JURORS: No. Now yes.

16 THE COURT: Okay. It's fixed. Thank you.

17 BY MS. LARYEA:

18 Q. Agent Killeen, from the top, the top section, with the
19 amount 440658, do you see that section?

20 A. I do.

21 Q. And to the right of it, what does it say?

22 A. Airfare, luxury hotel, and transportation.

23 Q. So what does that amount represent?

24 A. Expenditures related to flights, hotel stays, and other
25 forms of transportation.

H4rl1thi5

Killeen - Direct

1 Q. And how much was spent on those items?

2 A. 440,658.

3 MS. LARYEA: Mr. Beer, can you please publish
4 Government's Exhibits 1502.

5 Q. Special Agent Killeen, have you seen this document?

6 A. I have.

7 Q. What is it?

8 A. This is a receipt, an invoice for a stay at The Mark.

9 MS. LARYEA: And Mr. Beer, could you please enlarge
10 the top third of this document.

11 Q. And what is the name on this invoice?

12 A. Mr. Thiam Mahmoud.

13 Q. What is the address listed?

14 A. 340 East 14th.

15 Q. What is the arrival date at The Mark Hotel?

16 A. January 31, 2011.

17 Q. And the departure date?

18 A. February 4, 2011.

19 MS. LARYEA: Mr. Beer, can you please publish the
20 second to last page of this document. Could you please enlarge
21 the top part.

22 Q. And is this another invoice of the defendant, Mr. Thiam?

23 A. Yes.

24 Q. And what is the arrival date listed here?

25 A. July 19th of 2011.

H4rl1thi5

Killeen - Direct

1 Q. And a departure date?

2 A. July 22nd of 2011.

3 MS. LARYEA: Mr. Beer, could you please go to the next
4 page. Could you please enlarge the text.

5 Q. Agent Killeen, does it say how much the defendant spent
6 during his visit to The Mark hotel?

7 A. Yes, it does.

8 Q. How much did the defendant spend?

9 A. \$6,667.79.

10 Q. And does it say how many days the defendant was at this
11 hotel?

12 A. The 19th versus -- beginning the 19th, checking out the
13 22nd.

14 Q. Thank you. Agent Killeen --

15 MS. LARYEA: Mr. Beer, could you please publish
16 Government's Exhibit 1001.

17 Q. Agent Killeen, do you see the number listed fourth from the
18 top?

19 A. I do.

20 Q. And next to that arrow, what does it say?

21 A. Designer apparel.

22 Q. And how much was spent on designer apparel from the
23 defendant's HSBC Hong Kong account?

24 A. \$46,481.

25 Q. Do you see a logo next to the text designer apparel?

H4r1thi5

Killeen - Direct

1 A. I do.

2 Q. What is written underneath that logo, in small print?

3 A. Louis Vuitton.

4 MS. LARYEA: Mr. Beer, can you please publish
5 Government's Exhibit 1503.

6 Q. Agent Killeen, have you seen this document?

7 A. I have.

8 Q. What is it?

9 A. This looks like a receipt for a purchase at Louis Vuitton.

10 Q. What is the date listed on this?

11 A. April 16th of 2011.

12 Q. Can you read the description of the items purchased.

13 A. Top one, "PILOT CASE TAIGA ARDOISE."

14 Q. And how much was that item?

15 A. \$3,300.

16 Q. Can you please read the next item purchased.

17 A. I'll just spell it. "ETUI 5 CRAVATES TAIGA ARD."

18 Q. How much was that?

19 A. 835.

20 Q. What was the total amount on this receipt?

21 A. Total amount including tax was \$4,501.98.

22 MS. LARYEA: Mr. Beer, will you enlarge the bottom
23 part of this document.

24 Q. Special Agent Killeen, does it mention the name of the
25 individual who spent about \$4,500 at Louis Vuitton?

H4r1thi5

Killeen - Direct

1 A. It does.

2 Q. Who is that person?

3 A. Mr. Mahmoud Thiam.

4 MS. LARYEA: Mr. Beer, could you please publish
5 Government's Exhibit 1001.

6 Q. Agent Killeen, do these expenditures represent all the
7 expenditures out of the defendant's HSBC Hong Kong account?

8 A. No.

9 Q. Is it just a representative set?

10 A. Yes.

11 MS. LARYEA: Mr. Beer, can we return to the last page
12 of Government's Exhibit 1002. Last page.

13 Q. Agent Killeen, you testified that you reviewed all of the
14 HSBC Hong Kong bank records for the defendant's account ending
15 in 0888, is that correct?

16 A. I did.

17 Q. And that includes a review of the records between the date
18 opening, which the exhibits demonstrated was September 24th,
19 through this November 29, 2010 date, is that correct?

20 A. Correct.

21 Q. And during your review of those bank records did you ever
22 see the name Baker Al-Sadi?

23 A. I did not.

24 MS. LARYEA: Mr. Beer, can you please publish
25 Government's Exhibit 540.

H4r1thi5

Killeen - Direct

1 Q. Agent Killeen, have you seen this document?

2 A. I have.

3 Q. What is it?

4 A. This is an email exchange between the defendant and an
5 individual named Sanath, Kumar Sanath.

6 MS. LARYEA: Mr. Beer, can you please enlarge the
7 bottom email on the first page.

8 Q. Agent Killeen, who is this email from?

9 A. This is from Kumar Sanath, from a Yahoo email address of
10 Kumar Sanath.

11 Q. Who is the email to?

12 A. The defendant.

13 Q. And is there an email -- the first e-mail on the CC line,
14 can you read that?

15 A. Email address, you mean?

16 Q. Yes.

17 A. It says Aquil and the address is m.aquil@teledata.mz.

18 Q. What is the date that this email was sent?

19 A. November 1st of 2010.

20 Q. What is the subject of this email?

21 A. Swift Copy US dollars, 375,000.

22 Q. Agent Killeen, can you please read the text of the email.

23 A. "Dear Sir, Sorry for the delay in providing Swift copy.

24 The delay because of network problem in bank. Please find
25 attached Swift copy for the amount of US dollars 375,000."

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Killeen - Direct

1 MS. LARYEA: Mr. Beer, can you please publish page 3
2 of this document. Can you please enlarge the text that starts
3 Message Text to the bottom of the document.

4 Q. Agent Killeen, looking all the way on the bottom, Creation
5 Time, do you see that?

6 A. I do.

7 Q. What is the date that this Swift was created?

8 A. November 1st of 2010.

9 Q. Is that the same date as the email that was sent that we
10 just reviewed?

11 A. It is.

12 Q. Now going back to the top. How much was sent in the Swift?

13 A. 375,000 US dollars.

14 Q. Who sent the Swift?

15 A. Sociedade Saboeira De Nacala, or SSN.

16 Q. Is there an address listed for Sociedade Saboeira De
17 Nacala?

18 A. Yes, P.O. Box 346 Nacala.

19 Q. And the document, the section that discusses the recipient
20 of this, does it list the beneficiary customer?

21 A. Yes, it does.

22 Q. Who received this money?

23 A. Thomas McGregor.

24 MS. LARYEA: Mr. Beer, could you please go to page 2
25 of this document. Sorry. Please go to page 1, bottom of that

H4r1thi5

Killeen - Direct

1 email. Could you please enlarge the bottom email again.

2 Q. This is the email you just read, is that correct, Agent
3 Killeen?

4 A. Yes.

5 Q. The email appears to continue on the next page.

6 MS. LARYEA: Mr. Beer, could you please go to the next
7 page.

8 Q. And you testified before this was an email from Sanath
9 Kumar to the defendant, is that correct?

10 A. Correct.

11 Q. Can you please read the remainder of that email.

12 A. "And it's our request kindly instruct payment amount of US
13 dollars 375,000 for below mentioned bank details."

14 Q. Who is the supplier? Where is the money to be sent?

15 A. Pacific Inter-Link Sdn. Bhd.

16 Q. Where is Pacific Inter-Link based? Does it have an
17 address?

18 A. It's in Kuala Lumpur, Malaysia.

19 Q. Agent Killeen, we just looked at a Swift, is that correct?

20 A. Yes.

21 Q. What is a Swift?

22 A. A Swift is an international wire transaction report that
23 shows the details of when you wire money internationally.

24 Q. It's transfers of money from one person to another, is that
25 correct?

H4r1thi5

Killeen - Direct

1 A. Yes.

2 MS. LARYEA: Mr. Beer, can we return to the first page
3 of this email. Can you please enlarge the first section. The
4 first email.

5 Q. Who is this email from?

6 A. This email is, again, from Kumar Sanath to the defendant.

7 Q. And is there anyone on the CC line?

8 A. Again, Aquil, m.aquil@teledata.mz.

9 Q. What is the subject line?

10 A. Subject line is "Fwd: Swift Copy USD 375000."

11 Q. And what is the date of this email?

12 A. November 2, 2010.

13 Q. Is that the date after the first email was sent?

14 A. Yes, it is.

15 Q. Can you please read the email.

16 A. "Dear Sir, kindly process the payment ASAP. Bank details
17 mentioned below. Kindly process today and provide Swift copy
18 ASAP."

19 Q. What is the supplier name, the entity to receive the money?

20 A. Pacific Inter-Link, Sdn. Bhd.

21 Q. Now do you see the signature block for Sanath?

22 A. I do.

23 Q. What does it say underneath the signature block?

24 A. It's -- first line it says G.S. Group, SA; underneath that,
25 in parentheses, G.S. Holdings Lda., SSN Lda., Farinal Lda. IPAN

H4rlthi5

Killeen - Direct

1 Lda.

2 Q. Does it also have a p.o. box number?

3 A. Yes.

4 Q. What is the p.o. box number?

5 A. P.O. Box 346.

6 Q. Is that the same p.o. box number you just saw in the Swift
7 that we reviewed?

8 A. Yes.

9 MS. LARYEA: Mr. Beer, can you please publish
10 Government's Exhibit 105-A.

11 Q. Agent Killeen, have you reviewed this document?

12 A. I have.

13 Q. What is it?

14 A. This is a bank statement of Wachovia Bank for an account in
15 the name of Thomas C. McGregor.

16 Q. And is Thomas McGregor the same name we just saw on the
17 Swift we just reviewed?

18 A. It is.

19 Q. And what does it say underneath the name Thomas C.
20 McGregor, Esq.?

21 A. If we could --

22 Q. Oh.

23 MS. LARYEA: Mr. Beer, could you please enlarge that.

24 A. It reads, "IOLA Attorney Special Account, 100 south Bedford
25 Road, Suite 340, Mount Kisco, New York 10549."

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Killeen - Direct

1 MS. LARYEA: Mr. Beer, can you please enlarge the
2 section titled Deposits and Other Credits.

3 Q. Do you see that first entry underneath the title?

4 A. I do.

5 Q. What is the date of that entry?

6 A. November 3rd.

7 Q. What is the amount listed?

8 A. \$374,950.

9 Q. What is the description? Can you please read that.

10 A. "Funds transfer, received from Wells Fargo Bank,
11 originator, Sociedade Saboeira de Nacala, or SSN. RFB None.
12 OBI, RFD. Invoice No. PO --" those are titles. "PO-P.
13 Reference No. 1011034256000110, November 3, 2010, at 5:41 a.m.
14 Eastern."

15 Q. So that is 374,950 deposited into the account of Thomas
16 McGregor on November 3rd, is that correct?

17 A. Yes, it is.

18 Q. From Sociedade Saboeira de Nacala?

19 A. Yes.

20 Q. Is that correct?

21 A. Yes.

22 MS. LARYEA: Mr. Beer, can you please go to the second
23 page.

24 Q. Looking at the section called Other Withdrawals and Service
25 Fees, do you see the first item listed under that heading?

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Killeen - Direct

1 A. I do.

2 Q. What is the date of that item?

3 A. November 5th.

4 Q. And what is the description?

5 A. It's a counter withdrawal or withdrawal of \$375,000.

6 Q. From this Thomas McGregor account, is that correct?

7 A. Correct.

8 MS. LARYEA: Mr. Beer, can you please publish
9 Government's Exhibit 105-B.

10 Q. Agent Killeen, have you seen this document?

11 A. I have.

12 Q. What is it?

13 A. This is a withdrawal slip.

14 Q. Does it list the name of the account on this withdrawal
15 slip?

16 A. Yes, it does.

17 Q. What is the name listed?

18 A. Thomas McGregor.

19 Q. What is the date listed?

20 A. See if we can find the --

21 Q. Can you see that?

22 A. November 4, 2010.

23 Q. And what is the amount that was withdrawn?

24 A. \$375,000.

25 Q. And is this the withdrawal on November 4, 2010 --

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Killeen - Direct

1 A. Yes.

2 Q. Sorry. Withdrawn.

3 MS. LARYEA: Mr. Beer, can you please publish
4 Government's Exhibit 305-B, page 27. Sorry. 301-B, page 27.

5 Q. Mr. Killeen, I'm handing you Exhibit 301-B, page 27.

6 A. This is 305-R.

7 Q. Yes, but that's -- have you seen this document before?

8 A. I have.

9 Q. What is it?

10 A. This is the bank account statement for the defendant's HSBC
11 account in Hong Kong.

12 Q. What is the last four digits of the account number?

13 A. 0888.

14 Q. What is the date of the account statement?

15 A. Account statement date is November 23rd of 2010.

16 Q. I'd like you to turn to the second page.

17 A. Okay.

18 Q. Do you see a section that says Foreign Currency Savings?

19 A. Yes.

20 Q. Do you see a withdrawal on November 12, 2010?

21 A. I do.

22 Q. How much is that withdrawal for, the second withdrawal
23 listed?

24 A. \$375,000.

25 MS. LARYEA: Mr. Beer, can we publish Government's

H4r1thi5

Killeen - Direct

1 Exhibit 301-C, the Bates number that ends 4666.

2 No? Okay.

3 Q. I'm handing you Government's Exhibit 301, Bates No. ending
4 4666.

5 Special Agent Killeen, have you seen this document?

6 A. I have.

7 Q. What is it?

8 A. This is a HSBC account statement, a summary statement for a
9 wire.

10 Q. And does it list the person sending the wire?

11 A. Yes, it does.

12 Q. Can you read the name of the person sending the wire.

13 A. Mr. Thiam Mahmoud.

14 Q. On that document you have, does it list the beneficiary
15 customer, the entity receiving the wire?

16 A. Yes, it does.

17 Q. Can you read the name of the entity receiving the wire.

18 A. Pacific Inter-Link.

19 Q. What city is Pacific Inter-Link based in?

20 A. Kuala Lumpur, Malaysia.

21 Q. On the document, does it list how much was sent?

22 A. It does.

23 Q. How much is listed under the title Amount?

24 A. \$375,000.

25 Q. And what is the date that this \$375,000 was sent from the

H4rlthi5

Killeen - Direct

1 defendant to Pacific Inter-Link?

2 A. November 12th of 2010.

3 MS. LARYEA: Mr. Beer, can you please publish
4 Government's Exhibit 541.

5 Q. Special Agent Killeen, have you seen this document?

6 A. I have.

7 Q. What is it?

8 A. This is an email chain between the defendant and --
9 starting with the defendant and M. Aquil Rajahussen.

10 MS. LARYEA: Mr. Beer, can you please enlarge the
11 bottom email.

12 Q. You stated that the email is from the defendant?

13 A. Yes.

14 Q. And it's to an M. Aquil Rajahussen, is that correct?

15 A. Yes.

16 Q. What is the subject?

17 A. The subject is "Fwd: Outward Payments Notification,
18 Reference E1112164917."

19 Q. What is the date that this email was sent?

20 A. November 12th of 2010.

21 Q. Do you see a reference to USD 375 on this document?

22 A. I do.

23 MS. LARYEA: Mr. Beer, can you highlight that
24 reference.

25 Q. Can you read the section, third line down, that says To:

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Killeen - Direct

1 mahmoud.thiam@gmail.com. Can you read that till the end of
2 that sentence.

3 A. "To: mahmoud.thiam@gmail.com. Subject: Outward Payments
4 Notification. MT. If you cannot view this email properly,
5 please configure your email program so that it can support HTML
6 formatted emails. MT. Thank you for registering for this
7 email alert service. Your account has been debited for an
8 outward payment. Please see the details below. EAlert
9 Reference Number E1112164917."

10 Q. And do you see Bank Staff Beneficiary Bank?

11 A. Yes.

12 Q. What is the Bank Staff Beneficiary Bank listed?

13 A. RHB Bank, Berhad.

14 MS. LARYEA: Mr. Beer, could you put side by side next
15 to this Government's Exhibit 540. Can you enlarge the section
16 of the top email that says Supplier Name.

17 Q. Special Agent Killeen, am I correct that this is the email
18 we just reviewed from Sanath Kumar to Mr. Thiam regarding the
19 \$375,000 Swift?

20 A. It is.

21 Q. And you just read the section that asked what -- Sanath
22 Kumar asked Mr. Thiam to send 375 to Pacific Inter-Link, is
23 that correct?

24 A. That's correct.

25 Q. And what is the bank name for Pacific Inter-Link that is

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Killeen - Direct

1 listed there?

2 A. RHB Bank Berhad.

3 MS. LARYEA: Mr. Beer, can you please enlarge
4 Government's Exhibit 541, the bottom email.

5 Q. And do you see the RHB Bank Berhad listed there as well?

6 A. Yes, it's the third line from the top.

7 Q. Now going back to Government's Exhibit 541.

8 MS. LARYEA: Mr. Beer, can you enlarge the top half of
9 the email chain.

10 Q. That second email from the bottom, From, who is that email
11 from?

12 A. M. Aquil Rajahussen.

13 Q. What is the date of that email?

14 A. November 16, 2010.

15 Q. What is the subject?

16 A. "Fwd: Fwd: Outward Payments Notification."

17 Q. And can you read the first -- the "Dear Abdullah." Can you
18 read that line and the following line.

19 A. "Dear Abdullah, Please find below -- Please find below the
20 debit advice from HSBC on the value of USD 375K."

21 Q. And going back to the top email, who is it from?

22 A. That's from M. Aquil Rajahussen.

23 Q. Sorry. The very top email on this page?

24 A. Oh, okay. That's from Kumar Sanath.

25 Q. Email is from Kumar Sanath?

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Killeen - Direct

1 A. It's to Kumar Sanath.

2 Q. Who is it from?

3 A. Gopi Manoharan.

4 Q. And is Kumar Sanath the same name we saw that sent
5 Mr. Thiam that email on November 1st asking for the
6 remittance of 375 to Pacific Inter-Link?

7 A. It is.

8 Q. And what is the date of this top email?

9 A. December 22nd of 2010.

10 Q. And what does the email say? Can you just read that.

11 A. It says "FYI."

12 MS. LARYEA: Okay. Mr. Beer, can you please publish
13 Government's Exhibit 201.

14 Q. Agent Killeen, have you seen this document?

15 A. I have.

16 Q. What is it?

17 A. This is a deed transfer report for Dutchess County.

18 Q. Under Record and Return To, what is listed underneath --

19 MS. LARYEA: Mr. Beer, can you please enlarge the
20 text.

21 A. Under Record and Return To, it says Thomas McGregor.

22 Q. Is that the same name we saw on the Swift for \$375,000 we
23 just reviewed?

24 A. Yes.

25 Q. Under the section Grantee, can you please read what's

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Killeen - Direct

1 written next to it.

2 A. Sociedade Saboeira de Nacala Lda.

3 Q. And under Instrument Type, can you review -- can you please
4 read the taxes that are paid.

5 A. 15,000 transfer tax and \$37,500 mansion tax.

6 Q. Going back to the top of this email, what is the date that
7 the deed is recorded?

8 A. The date the deed was recorded was on December 6th of
9 2010.

10 Q. Going to the second page of this document, the deed lists
11 who the buyer is of this property?

12 A. It does.

13 Q. Who is the buyer?

14 A. Sociedade Saboeira de Nacala.

15 Q. What is the address of the buyer?

16 A. 340 East 64th Street, Apartment 14H, New York, New York.

17 Q. And what is the date of the sale?

18 A. 13th of November 2010.

19 Q. Going to page 4 of this document. On the bottom underneath
20 the signature, do you see the street address of the property
21 that is the subject of this deed?

22 A. I do.

23 Q. What is the street address of the property being purchased?

24 A. 771 Duell Road.

25 MS. LARYEA: Mr. Beer, can you please publish

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Killeen - Direct

1 Government's Exhibit 2000 -- I'm sorry, 202.

2 Publish Government's Exhibit 205-A.

3 Q. Special Agent Killeen, have you seen this document?

4 A. I have.

5 Q. What is it?

6 A. This is the real property transfer report for the State of
7 New York.

8 Q. Does it list when the date of the deed was recorded?

9 A. Yes, it does.

10 Q. What is that date?

11 A. Can you highlight.

12 This deed was recorded on December 6th of 2010.

13 Q. Is that the same date of the deed we just looked at?

14 A. Yes.

15 Q. What is the property that is being transferred?

16 A. 771 Duell Road.

17 Q. And who is the buyer of 771 Duell Road?

18 A. Sociedade Saboeira de Nacala.

19 MS. LARYEA: And Mr. Beer, can you please enlarge the
20 second half of this document.

21 Q. Does this document list the date of the sale of 771 Duell
22 Road?

23 A. It does.

24 Q. What is the sale price for 771 Duell Road?

25 A. \$3,750,000.

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Killeen - Direct

1 Q. Under the section titled Buyer, do you see that section,
2 Special Agent Killeen?

3 A. I do.

4 Q. Who is the buyer listed under that section?

5 A. Sociedade Saboeira de Nacala Lda.

6 Q. And is there a signature for the buyer?

7 A. It is -- there is.

8 Q. Can you read that signature?

9 A. Fatim Thiam.

10 Q. What is the address listed for the buyer?

11 A. 340 East 64th Street, Apartment 14H, New York.

12 Q. And what is the buyer's attorney listed?

13 A. Thomas McGregor.

14 MS. LARYEA: Mr. Beer, can you please publish
15 Government's Exhibit 305-C. 205-C.

16 Could you please go to page 2.

17 Q. Special Agent Killeen, have you seen this document?

18 A. I have.

19 Q. What is it?

20 A. This is the articles of organization for 771 Duell Road,
21 LLC.

22 Q. What is the date that these articles of incorporation were
23 filed?

24 A. December 10th of 2010.

25 MS. LARYEA: Mr. Beer, can you please move to the next

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Killeen - Direct

1 page.

2 Q. Who is the authorized person listed on this certification
3 of publication for 771 Duell Road, LLC?

4 A. Fatim Thiam.

5 MS. LARYEA: Mr. Beer, can you please publish
6 Government's Exhibit 106-C.

7 Q. Agent Killeen, have you seen this document?

8 A. I have.

9 Q. What is it?

10 A. This is a bank opening statement, signature card for a bank
11 account under the name of 771 Duell Road, LLC.

12 THE COURT: Is this 106-T?

13 MS. LARYEA: This is 106-C.

14 THE COURT: Has this been offered into evidence?

15 MS. LARYEA: I believe it has. Can we take it down
16 now.

17 I'll move on.

18 Mr. Beer, please publish Government's Exhibit 203.

19 BY MS. LARYEA:

20 Q. Special Agent Killeen, have you seen this document?

21 A. I have.

22 Q. What is it?

23 A. This is a deed transfer report for Dutchess County.

24 Q. And what is the --

25 MS. LARYEA: Mr. Beer, can you please enlarge this

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Killeen - Direct

1 document.

2 Q. What is the name of the individual listed under Record and
3 Return?

4 A. Thomas McGregor.

5 Q. And what is the date that this deed is recorded?

6 A. October 29th of 2012.

7 Q. And who is selling the land, the property?

8 A. The grantor is Sociedade Saboeira de Nacala Lda.

9 Q. What is the name of the grantee?

10 A. Amer Holdings, PTE LTD.

11 Q. Going to the second page of this document, what is the date
12 of the sale of this property, or transfer of this property?

13 A. May 11th of 2012.

14 Q. And you mentioned the buyer was Sociedade Saboeira de
15 Nacala Lda.?

16 A. Yes.

17 Q. What is the address listed for the buyer -- sorry -- for
18 the seller?

19 A. Yeah. Seller is 340 East 64th Street, New York.

20 Q. And what is listed as the buyer of this property?

21 A. Amer Holdings PTE LTD.

22 Q. And what is the address listed for the buyer?

23 A. Same address, 340 East 64th Street, New York.

24 Q. And on the bottom, is there a signature for Sociedade
25 Saboeira de Nacala Lda.?

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Killeen - Direct

1 A. Yes, there is.

2 Q. Can you read that signature?

3 A. Fatim Thiam.

4 Q. And what does it say underneath that signature?

5 A. Member, Fatim Thiam.

6 MS. LARYEA: Mr. Beer, could we please go to page 5 of
7 this document.

8 Q. Agent Killeen, does this page list the address of the
9 property being transferred?

10 A. Yes, it does.

11 Q. What is the address listed?

12 A. 771 Duell Road.

13 MS. LARYEA: Mr. Beer, could you please publish
14 Government's Exhibit 204.

15 Please take that down.

16 Could you please publish Government's Exhibit 1003.

17 Q. Special Agent Killeen, you mentioned that you reviewed some
18 summary exhibits relating to the HSBC account expenditures, is
19 that correct?

20 A. That's correct.

21 Q. So I want to walk through this document. On the very far
22 right, starting on the right-hand side --

23 A. Okay.

24 Q. -- what is the name listed there?

25 A. McGregor.

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Killeen - Direct

1 Q. And is that the same Thomas McGregor that we have seen in
2 the documents we just reviewed?

3 A. Yes, it is.

4 Q. And there is a bank account listed underneath. What is
5 that, the last four digits of that bank account?

6 A. 4901.

7 Q. Who is that account with?

8 A. Wachovia Bank.

9 Q. Is that the same account we reviewed of Thomas McGregor in
10 Wachovia Bank previously?

11 A. It is.

12 Q. Now moving one to the left, what is the date written there?

13 A. November 1, 2010.

14 Q. And what is the amount?

15 A. \$375,000.

16 Q. Moving one more to the left, what is the name of the entity
17 written?

18 A. SSN Lda., Sociedade Saboeira de Nacala Lda., and G.S.
19 Holdings Lda.

20 Q. And what does this exhibit, this page represent, the arrow
21 from SSN to McGregor?

22 A. It shows the wire represented by the previously shown Swift
23 report of \$375,000 from a bank account of SSN to McGregor's
24 account at Wachovia Bank on November 1, 2010.

25 Q. And the email that is depicted beneath, is that the email

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Killeen - Direct

1 we just reviewed?

2 A. It is.

3 Q. The email from Sanath Kumar to the defendant?

4 A. Yes.

5 MS. LARYEA: Mr. Beer, can we move on to the next
6 page, please.

7 Q. Now moving one to the left of SSN Lda., do you see that
8 arrow?

9 A. I do.

10 Q. And that arrow is pointing to the defendant's name, M.
11 Thiam, is that correct?

12 A. Correct.

13 Q. And underneath the email, is that the email we just
14 reviewed from Sanath Kumar to the defendant?

15 A. Yes, it is.

16 Q. On November 1st and again on November 2nd, is that
17 correct?

18 A. That's correct.

19 Q. And that email asked the defendant to send \$375,000 to
20 Pacific Inter-Link Sdn. Bhd., is that correct?

21 A. That's correct.

22 MS. LARYEA: The next page, please, Mr. Beer.

23 Q. Going back to the right-hand side of this document, there's
24 an arrow from Thomas McGregor pointing down. Do you see that
25 arrow?

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Killeen - Direct

1 A. I do.

2 Q. What is the date listed on that arrow?

3 A. November 5th of 2010.

4 Q. And the amount?

5 A. \$375,000.

6 Q. And is that the withdrawal we just reviewed when we
7 reviewed the accounts of Thomas McGregor?

8 A. It is.

9 Q. Withdrawal of \$375,000 on November 5th, 2010, is that
10 correct?

11 A. That's correct.

12 Q. And all the way to the left, do you see an account number
13 next to the name M. Thiam?

14 A. Not right now. I believe it's on the next page.

15 Q. Sorry. The next page. Do you know see an account number
16 listed next to the defendant's name, M. Thiam?

17 A. I do.

18 Q. What is the last four digits of that account number?

19 A. 0888.

20 Q. Is that the same last four digits of defendant's HSBC Hong
21 Kong account?

22 A. It is.

23 Q. Now do you see the arrow pointing down from that account?

24 A. I do.

25 Q. What is the date listed on that arrow?

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Killeen - Direct

1 A. The date listed is November 12th of 2010.

2 Q. And what is the amount listed?

3 A. \$375,000.

4 Q. And who is the arrow pointing to?

5 A. Pacific Inter-Link.

6 Q. What does that arrow from the defendant's HSBC Hong Kong
7 account to Pacific Inter-Link represent?

8 A. It represents the wire from the HSBC account of the
9 defendant to the bank account of Pacific Inter-Link in the
10 amount of \$375,000 on November 12th.

11 Q. Is that the wire we just reviewed?

12 A. It is.

13 Q. And next to that wire there is an email.

14 A. Yes.

15 Q. Is that the email from the defendant to M. Aquil Rajahussen
16 that we reviewed from November 12, 2010?

17 A. Yes.

18 Q. The email that forwards the information about the wire
19 transfer from the defendant's Hong Kong bank account to Pacific
20 Inter-Link.

21 A. Yes.

22 MS. LARYEA: The next page, please, Mr. Beer.

23 Q. Now going all the way to the top right-hand corner of this
24 document, do you see an arrow pointing from Mr. McGregor
25 upward, or to the right and then up?

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Killeen - Direct

1 A. Yes.

2 Q. What is the date listed on that arrow?

3 A. The 13th of November of 2010.

4 Q. What is the amount listed?

5 A. \$3,750,000.

6 Q. And it's pointing to a house, is that correct?

7 A. Correct.

8 Q. What does that arrow represent?

9 A. The purchase of 771 Duell Road.

10 Q. And it was purchased for \$3.75 million, is that correct?

11 A. It was, yes.

12 Q. And Agent Killeen, is \$375,000 10 percent of \$3.75 million?

13 A. It is.

14 Q. Agent Killeen, you mentioned earlier that you reviewed the
15 videotape of the defendant's interview with FBI after his
16 arrest, is that correct?

17 A. That is correct.

18 MS. LARYEA: Mr. Beer, can you please play clip 5 from
19 Government Exhibit 801-A.

20 (Video played)

21 Q. Agent Killeen, during the interview, did the defendant
22 discuss his role in the negotiations with CIF in the Guinea
23 deal we've been discussing?

24 A. Yes.

25 MS. LARYEA: Mr. Beer, can you please play clip 7 of

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Killeen - Direct

Government Exhibit 801-A.

(Video played)

MS. LARYEA: Mr. Beer, can you also play clip 18 from
Government's Exhibit 801-A.

(Video played)

(Continued on next page)

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Killeen - Direct

1 Q. Agent Killeen, during the interview, did the defendant
2 mention anything about payments from Sam Pa to other government
3 officials?

4 A. Yes, he did.

5 MS. LARYEA: Mr. Beer, can you please play clip 8 from
6 Government Exhibit 801A.

7 (Video played)

8 Q. Agent Killeen, during the interview, did the defendant
9 discuss the source of the money in his Hong Kong HSBC account?

10 A. He did.

11 MS. LARYEA: Mr. Beer, can you please publish clip 9
12 of Government Exhibit 801A.

13 (Video played)

14 Q. Special Agent Killeen, in listening to this video clip, did
15 you hear the defendant mention that he asked people who owed
16 him money to deposit money into the Hong Kong bank account?

17 A. I did.

18 Q. He said he could give a list of 50 people, is that correct?

19 A. That's correct.

20 Q. You testified that you reviewed that Hong Kong bank account
21 of the defendant, is that correct?

22 A. I did.

23 Q. When you reviewed that account, how many people had
24 deposited money into that account?

25 A. I would say five or six. Less than ten.

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Killeen - Direct

1 Q. Special Agent Killeen, did the defendant provide any other
2 explanations regarding the amount in the HSBC Hong Kong
3 account?

4 A. He did.

5 MS. LARYEA: Mr. Beer, can you please publish clip No.
6 10 from Government Exhibit 801A.

7 (Video played)

8 MS. LARYEA: Can you also play clip 11, same
9 government exhibit, 801A.

10 (Video played)

11 MS. LARYEA: Mr. Beer, can you please also play clip
12 12 from Government Exhibit 801A.

13 (Video played)

14 MS. LARYEA: Can you please also play clip 13 from
15 government Exhibit 801A.

16 (Video played)

17 MS. LARYEA: Mr. Beer, after clip 13, can you also
18 please play clip 14.

19 (Video played)

20 Q. Agent Killeen, did the defendant, during this interview
21 also explain who sent him the money into his Hong Kong bank
22 account?

23 A. Yes.

24 MS. LARYEA: Mr. Beer, can you please play clip 15 of
25 government 801A.

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(Video played)

Q. Agent Killeen, during the interview with the defendant, did he explain how he got the money?

A. Yes.

MS. LARYEA: Mr. Beer, can you please play clip 17 from Government Exhibit 801A.

(Video played)

THE COURT: Counsel, I think we'll probably end here for the day.

Ladies and gentlemen, we're not going to sit tomorrow. We'll resume the trial Monday morning at 9:30. I want to remind you if you see any press report about the topic of bribery generally, hear anything on the news, television, radio, just switch the channel. I've told you before never to do any research about this case; rely on the lawyers to present to you the information in this courtroom that you need to render a verdict.

With that, I remind you not to discuss the case with anyone and have a great weekend. See you Monday morning, 9:30.

(Continued on next page)

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(In open court; jury not present)

THE COURT: I know we're going to talk about the videotaped testimony from Momo Sakho now. Is there anything else besides that that we need to address this evening?

Mr. Kobre.

MR. KOBRE: No, your Honor.

THE COURT: Mr. Goldsmith.

MR. GOLDSMITH: No, your Honor.

THE COURT: OK. I received letters on Sunday regarding this issue. We had discussion Monday morning at the beginning of trial about this issue, and I reserved decision until we had testimony from the two Guinean witnesses.

Let me ask you, Mr. Goldsmith, is there anything you wish to add now to your application?

MR. GOLDSMITH: Well, I think that the testimony of the witnesses conforms with what my anticipation was. In fact, the government also opened on the opportunity for Mr. Thiam to promote that deal to the government. Accordingly, I think that highlights the necessity for Mr. Sakho to rebut that argument and that testimony.

THE COURT: Does the government wish to be heard?

MR. KOBRE: Just briefly, your Honor. I think, in fact, quite the opposite. The testimony the government elicited from the Guinean witnesses is actually entirely consistent, it sounds like, with what the defense has proposed

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1 to have Mr. Sakho testify about. The testimony was that other
2 individuals were involved; that there was a committee; that
3 actually the signatures on the documents were commanded by
4 others. And the government's view continues to be as it was
5 set forth in the letter, that there was certainly nothing
6 exculpatory in what's proposed to be the testimony of
7 Mr. Sakho.

8 As the Court instructed the jury and as I think the
9 Court has said several times, it's not the government's burden
10 here to prove that the defendant was the ultimate decision
11 maker -- in fact, he may have even had a small role, so long as
12 the government proves that he used his position to promote the
13 agreement in exchange for the money that was given to him. So
14 the government opposes any allowance for this witness to
15 testify by CCTV or otherwise.

16 THE COURT: OK. I laid the legal standard on the
17 record earlier, and in that connection, I just remind you that
18 I'm applying the standards under Rule 15 of the Federal Rules
19 of Criminal Procedure and the Second Circuit case law I cited
20 on Monday. Among other things, I have to decide whether the
21 witness's testimony is material and whether it is necessary to
22 prevent a failure of justice.

23 I don't find it is material or necessary to prevent a
24 failure of justice, and I will not allow the videotaped
25 testimony of Momo Sakho to be received at this trial.

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1 What we've heard in largely undisputed evidence, and I
2 think the descriptions of the number of people involved and the
3 process in connection with the ultimate execution of a
4 shareholders agreement is really pretty undisputed. The
5 president was the most powerful person in the country. At this
6 period of time, under him was a prime minister and a council of
7 ministers. There were various advisers to the ministers and to
8 the president. Committees were appointed. There was a
9 technical committee. There was a smaller committee to handle
10 the negotiations. In essence, there were many players, many
11 people involved. The defendant was one of many. He had a very
12 important role but not the only role of importance. In fact
13 the most significant committee he was on he was not the chair
14 of. Someone named Minister Barry was the chair of that
15 committee.

16 We've heard that Mr. Barry had a personal relationship
17 with the president. We've heard that the president was the one
18 who makes all the final decisions here. It's the president who
19 decides who's appointed as a minister, who's appointed to the
20 critical committees, whether or not a power of attorney form
21 would be signed, whether or not an agreement would be entered.
22 The agreements that were at issue here, including the
23 shareholders agreement, was subject to review by the council of
24 ministers. And the cross-examination of the first Guinean
25 witness that we had was used to underscore a number of these

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1 points, and they include that the council of ministers was
2 required to review the shareholders agreement and had to decide
3 whether or not it would be approved; that both the defendant as
4 well as Mr. Barry held that exalted position of ministers of
5 the presidency; that Minister Barry had a personal relationship
6 with the president, and it was standard procedure for him to be
7 alone with the president; and that everyone, including the
8 defendant, had to follow the president's directions.

9 I point those out as just a few of the themes that
10 came through in the examination of critical witnesses here, but
11 let's turn to the law and the legal standard with respect to
12 the violation of Guinean law. I think the critical term is
13 that the payment be made under article 192 in return for -- I
14 just want to confirm that. Yes. It's an element of a
15 violation of article 192, the passive corruption statute under
16 Guinea's penal code, that a defendant's receipt of a thing of
17 value be in return for engaging in an act or refraining from
18 engaging in an act. So the proffer with respect to Momo
19 Sakho's proposed testimony as contained in the letter of April
20 23 and elaborated on today has really nothing to do with
21 whether or not a violation of article 192, much less 194,
22 occurred here, and it has nothing to do with, of course, the
23 elements under the two money-laundering statutes. I don't
24 think it's either material or in the interests of justice.
25 It's not going to be exculpatory; it's really about things that

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1 are largely undisputed.

2 It's undisputed that the defendant didn't have the
3 ultimate decision-making authority and it's irrelevant under
4 the law in any event. And it's undisputed that the president
5 was the final decision maker and had many important
6 relationships, many committees and individuals advising him.
7 Indeed, no one here at any point was acting alone.

8 Thank you, counsel. I'll see you Monday morning at
9 9:00. Thank you.

10 Counsel, I'm so sorry. I forgot to ask you about a
11 charging conference. When does the government expect to rest?

12 MR. KOBRE: Your Honor, I think our best estimate now
13 is Monday before lunch or lunch at the latest, in the morning
14 at some point. It will depend obviously to some degree on how
15 long the crosses are, but assuming they're fairly moderate,
16 around lunchtime, give or take.

17 THE COURT: Will there be a defense case?

18 MR. GOLDSMITH: Your Honor, I anticipate a defense
19 case.

20 THE COURT: How long?

21 MR. GOLDSMITH: Probably a day and a half or a day,
22 but not longer.

23 THE COURT: OK. This is the situation. We're moving
24 right into summations after the parties rest, so if the parties
25 are going to rest on Monday, we need to have the charging

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1 conference Monday morning so that you can sum up Monday
2 afternoon. If there's a defense case, we can have the charging
3 conference Tuesday morning.

4 MR. GOLDSMITH: I think we can have it Tuesday
5 morning.

6 THE COURT: OK. Let us just say, just say, that over
7 the weekend you decide there will be no defense case or a
8 shorter defense case, I'll be here Sunday, I can finalize the
9 charge and leave it for everyone early Monday morning, so we
10 can handle it that way and give the defendant extreme
11 flexibility in making these decisions. And I know,
12 Mr. Goldsmith, you're so cooperative that you're telling me
13 there will be a defense case, but I know life is filled with
14 surprises.

15 MR. GOLDSMITH: Oh, sure. There's always a final
16 decision, especially since Agent Killeen is still on the stand.
17 We've got a couple more bank witnesses, as I understand it.
18 I've got at least one fact witness, who is not going to be very
19 long, who is ready and available and who is here. I'm still
20 awaiting word on another fact witness that I'm hopeful will
21 work out. That's why I say I'm fairly confident between the
22 government finishing around lunch, obviously Rule 29 arguments
23 may obviate everything --

24 THE COURT: No. They're not going to take up jury
25 time, I'll assure you of that.

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1 MR. GOLDSMITH: OK. Beyond that, a short defense case
2 I'm relatively confident of, depending on, as the Court just
3 mentioned, how short or long it is, is clearly a series of
4 decisions that will get made Monday.

5 THE COURT: Will get made Monday?

6 MR. GOLDSMITH: Yes, or by Monday. Your Honor,
7 obviously you would like more guidance between the parties as
8 to whether or not there will be a lengthier defense case over
9 the weekend?

10 THE COURT: This is the situation. I want to move. I
11 want to fill Monday until 5:00.

12 MR. GOLDSMITH: Right.

13 THE COURT: I'm happy to have a defense case all the
14 rest of Monday and all of Tuesday. I don't care, absolutely
15 neutral, but I need to give you a charging conference.

16 MR. GOLDSMITH: Right.

17 THE COURT: So let us say you'll communicate with each
18 other and with chambers by noon on Sunday if you think we
19 should have a charging conference Monday morning.

20 MR. GOLDSMITH: Very well.

21 THE COURT: Good. And that will give me enough time
22 to put everything in final for you and make copies and be able
23 to conduct that, and the charging conference would be 9:00 on
24 Monday morning. When do you want the charge? There are only
25 two counts, but obviously everything is important. Do you want

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1 it at 8:00, copies on your desk, or 8:30? What do you prefer?

2 MR. GOLDSMITH: 8:00.

3 THE COURT: Great. And if we don't hear anything from
4 you by noon on Sunday, we're just going to have the charging
5 conference Tuesday.

6 MR. GOLDSMITH: Very well.

7 THE COURT: At 9:00, and the charge will be left for
8 you Tuesday morning at 8 a.m.

9 MR. GOLDSMITH: Thank you, your Honor.

10 THE COURT: Great. Have a great weekend.

11 (Adjourned to May 1, 2017, at 9:00 a.m.)
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